

1

2

3

4

5

6

7

8

9

10

11

DEFENSE ENVIRONMENTAL RESPONSE TASK FORCE

12

VOLUME I

13

FEBRUARY 3, 1999

14

15

16

17

18

19

20

21

ORIGINAL

22

23

24

25

WORKING DRAFT

TASK FORCE MEMBERS:

MS. KARLA PERRI  
Assistant Deputy Under Secretary of  
Defense, U.S. Department of Defense;

MR. STAN PHILLIPPE  
California Environmental Protection  
Agency;

MR. WILLIAM D. GRAY  
The Environment and Energy Study  
Institute;

MR. BRIAN K. POLLY  
Assistant Commissioner,  
U.S. General Services Administration;

MR. J. STEVEN ROGERS  
Acting Counsel for State and Local  
Affairs, Environment and Natural  
Resources Division, United States  
Department of Justice;

MR. JIM WOOLFORD  
U.S. Environmental Protection Agency;

MR. THOMAS EDWARDS  
State Attorney General's Office,  
State of Texas;

GEN. MILTON HUNTER  
U.S. Army Corps of Engineers;

MR. PAUL O. REIMER  
Reimer Associates,  
Representative of the Urban Land  
Institute.

\* \* \* \* \*

WORKING DRAFT

1                   On the 3rd day of February, A.D.  
2                   1999, at the Cathedral Hill Hotel,  
3                   1101 Van Ness Avenue, in San Francisco,  
4                   California, the above entitled meeting came on  
5                   for discussion before said KARLA PERRI, and the  
6                   following proceedings were had:

7                   MR. CHOUDHURY: Good morning. I'm  
8                   Shah Choudhury, the Executive Director of the  
9                   Defense Environmental Response Task Force,  
10                  or DERTF, for short.

11                  If you can take your seats, we can begin  
12                  the meeting. If you're having conversations,  
13                  if you could please take them outside the room  
14                  so that we can get started. There are some  
15                  administrative remarks that I need to go  
16                  through.

17                  Again, as a reminder, this meeting of the  
18                  Defense Environmental Response Task Force is  
19                  being held under the provisions of the Federal  
20                  Advisory Committee Act. The meeting is open to  
21                  the public and all statements are being  
22                  recorded. As a note for the record, a quorum  
23                  of members is present at this meeting.

24                  This is the second day of the business  
25                  meeting of the Task Force. The Task Force

1 members will hear a presentation on various  
2 environmental cleanup topics related to BRAC  
3 environmental cleanup. Members of the public  
4 are welcome to observe this process. Observers  
5 that would like to provide information to  
6 enhance the understanding of the Task Force  
7 members are encouraged to do so at any time via  
8 the computer stations set up in the adjoining  
9 room. You are welcome to address follow-up  
10 questions to presenters off the record during  
11 breaks.

12 As we are using a stenographer to assist  
13 in keeping a record of this meeting, I request  
14 that only one person speak at a time, speak  
15 into the microphone -- and for other than DERTF  
16 members, please state your name and  
17 affiliation. Members and presenters -- again,  
18 I request that you use the microphones in  
19 making their remarks and questions.

20 Briefly, I want to summarize our events of  
21 yesterday. The Task Force members adopted the  
22 minutes from the July 19th meeting and  
23 requested a revision to the principles  
24 document. We had several presentations  
25 providing overview of the Bay Area and a panel

1 on public involvement in BRAC cleanup, which  
2 was then followed by a public comment period.

3 Today, we have several presentations and  
4 panels. This morning we will begin with a  
5 presentation on State of Pennsylvania's  
6 Voluntary Cleanup Program. Following this, we  
7 will have a panel coordinated by EPA on  
8 Native American issues in BRAC environmental  
9 cleanup. Two presentations on land use  
10 controls will follow this day. One is a panel  
11 coordinated by the National Attorneys  
12 Association of Attorneys General, and the  
13 other, a DoD presentation. Later on, we will  
14 have a discussion of the DERTF's fiscal year  
15 1999 annual report to Congress and DERTF  
16 business will round out this afternoon. We  
17 will have public comment period again from 5:30  
18 to 8:30 this evening.

19 To keep on schedule and facilitate  
20 movement of all the speakers to the podium and  
21 panel table, I would ask those presenters to  
22 sit in the reserved seats near the podium and  
23 for members to reserve questions until all the  
24 panel members have spoken. Presenters, I  
25 request that you stay up front until the

1 question and answer period for your  
2 presentation is over.

3 Briefly, for the public comment period --  
4 those that do desire to speak -- there are  
5 some purple cards outside the room on the  
6 information table. I request that you fill  
7 them out and hand them to me during a break.  
8 We will give preference to those that have not  
9 spoken at this meeting, yet, and we'll call  
10 participants to the podium in the order that I  
11 receive the cards. Once everyone desiring to  
12 speak has spoken -- has had an opportunity to  
13 speak, we will, then, call others that desire  
14 to speak for a second time to the podium in  
15 alphabetical order.

16 That concludes my administrative remarks.  
17 I turn the floor over to the Chair, Ms. Perri.

18 MS. PERRI: Thank you. Unless any of  
19 the DERTF members have something specific that  
20 they'd like to open with, why don't we move  
21 directly to the panel?

22 I'd like to introduce Paul Yaroschak of  
23 the Navy for introducing our panel today.

24 MR. YAROSCHAK: Thank you,  
25 Madam Chair and members of the DERTF. Good to

1       see you all again.

2               It's my pleasure this morning to introduce  
3       to you Denise Chamberlain who is the  
4       Deputy Secretary of the Department of  
5       Environmental Protection for Pennsylvania --  
6       and with her is Jim Snyder who is the Director  
7       of the Bureau of Land Recycling and Waste  
8       Management.

9               I specifically asked that -- the chair to  
10      do this introduction because I wanted to give  
11      you, like, a one-minute customer's view of a  
12      regulator in Pennsylvania.  Initially, when  
13      Denise and Jim came to us with what they call a  
14      multi-site agreement proposal, shall I say we  
15      were cautious.  We were very cautious about  
16      it.  We were wondering what is it that they're  
17      trying to get from us.  After looking at it and  
18      talking with them quite a bit, we saw that it  
19      was really a win/win/win situation.  I would  
20      just tell you from our point of a view as a --  
21      as a customer, I would say there's two  
22      attractive things for us.  One is because of  
23      their Pennsylvania Act II standards -- and  
24      they'll talk about that a little, I think -- if  
25      you meet -- they're very definitive -- and if

1       you meet those standards, there's great  
2       benefits to accrue for both -- for an older  
3       owner of property and a new owner of property.  
4       The second thing that was very attractive for  
5       us is they have a philosophy of minimal  
6       oversight, non-micro management. In other  
7       words, "You meet our standards, we'll check you  
8       and you're done." Oversimplification, of  
9       course.

10           But the bottom line is that what they're  
11       doing, I think, is they're getting cleanups,  
12       they're ensuring rigorous environmental  
13       protection and they're putting property back  
14       into use -- and I guess what I would say to you  
15       is that they -- they -- I think they're kind of  
16       pointing the way in doing business like a  
17       21st century regulatory.

18           And with that, Jim and Denise?

19           MS. CHAMBERLAIN: Good morning.  
20       We're very pleased to be able to talk with you  
21       about our Pennsylvania Land Recycling Program,  
22       as well as our relationship with the military.  
23       We're very happy to be able to say that the  
24       Pennsylvania Environmental Agency, as well as  
25       the military, has an awful lot of common



1 ground. We're interested in remediating  
2 properties and returning them back to  
3 productive use. We're interested in being much  
4 more effective with our processes and, as a  
5 result, what we've been able to do is use the  
6 foundation of our Land Recycling Program and  
7 meet with the military, come up with a number  
8 of efficiencies and streamline the process so  
9 we can be very, very effective.

10 What we were interested in doing, as Paul  
11 mentioned -- and I'm positive all of the  
12 military raised an eyebrow when we called upon  
13 them -- is we were much more interested in  
14 having them utilize a lot of the concepts in  
15 the Brownfield sector that so many of our  
16 companies are utilizing and we were saying to  
17 them it would be very effective if they started  
18 to come up with some similar private sector  
19 techniques -- and as a result, what we'd like  
20 to do is explain a little bit about our Land  
21 Recycling Program and the fact that now  
22 Pennsylvania, with the military, has an  
23 environmental business plan to address all of  
24 the sites in Pennsylvania.

25 Just to put this into some sort of

1 perspective and to give you an indication about  
2 why there's been a lot of great momentum in  
3 Pennsylvania, I think you really have to have  
4 an understanding about Pennsylvania's Land  
5 Recycling Program. It's our voluntary program  
6 or it's our Brownfields program -- and I have  
7 to tell you that in the latter '80s, as well as  
8 the beginning of the '90s, we struggled like  
9 any number of states trying to figure out how  
10 to deal with contaminated properties. We're  
11 part of the rust belt. We had a lot of  
12 contaminated sites and we were using a lot of  
13 the Superfund-like techniques in trying to move  
14 properties along. But, frankly, it was quite a  
15 challenge to us and we were not doing a very  
16 good job.

17 We have a wonderful industrial heritage.  
18 We realized that steel was not being the leader  
19 that it was. We had to be changing a lot of  
20 what was going on within our industrial  
21 areas -- and, frankly, what we wanted to do was  
22 we wanted to rebuild upon our industrial  
23 heritage and we were very concerned about  
24 sprawl and the preservation of green land --  
25 green sites -- Greenfields -- and what we

1        wanted to do was come up with a program that  
2        was really going to work.

3                We wanted a program that was going to be  
4        based upon sound science and we had three goals  
5        in mind. We wanted to put our industrial sites  
6        back into productive use and create needed jobs  
7        in Pennsylvania. There was a migration of jobs  
8        out of the commonwealth. What we also wanted  
9        to do was we wanted to clean up sites and make  
10       sure that they were safe for our communities  
11       and our workers and we also wanted to make sure  
12       that we really could preserve a lot of the  
13       wonderful farmland that we have and make sure  
14       they we have undeveloped green spaces within  
15       the commonwealth. In the 21st century -- as we  
16       talk about our 21st century, we actually have a  
17       plan in place in Pennsylvania and it is really  
18       focused on strong local land use planning. So,  
19       we're taking a look at what we need to preserve  
20       and we're also taking contaminated sites and  
21       making them safe again for productive use.

22               We really were in quite a mire of a  
23        situation in the '90s. We had unrealistic  
24        cleanup standards. We had, maybe, no standards  
25        in many cases. One of the frustrations when I

1       was in the private sector is we seemed to have  
2       an infinitive review process. We never really  
3       knew when you reached the end nor could you  
4       ever figure out where you were in the process.  
5       It was a real mystery in dealing with the  
6       agency and it was probably interesting on the  
7       inside with Jim, as well -- because I think he  
8       was equally frustrated with the fact that  
9       things would just kind of get into a black  
10      hole. What were we going to be doing? How  
11      would we deal with the standards?

12               MR. SNYDER: Back at that time,  
13      instead of us being the Department of  
14      Environmental Protection, it was DER,  
15      Department of Environmental Regulation -- and  
16      folks basically used to suggest that DER stood  
17      for "Don't Expect Results" -- and that was  
18      because -- we didn't really have unrealistic  
19      cleanup standards. Those standards were  
20      essentially background circumstances or  
21      non-detect circumstances -- and, frankly, in a  
22      lot of cases, the standard was cleaner than  
23      what you would -- what would you find in your  
24      back yard if you went out and took a shovelful  
25      of soil. So, we all had to come to grips with

1       that and that's basically what led us to  
2       re-engineering not only our program but the way  
3       we did things.

4               MS. CHAMBERLAIN:  So, we were really  
5       mired in a lot of bureaucracy and we really  
6       didn't think that we'd be able to come up with  
7       solutions, but we said, "Enough is enough," and  
8       what we did was we began a three-year  
9       project -- and it was much involved with public  
10      participation.  We had the agency involved.  We  
11      had the public sector involved, communities,  
12      citizens, local business, local government,  
13      environmental organizations.  We all came  
14      together in any number of public forums to be  
15      able to create our Land Recycling Program.  We  
16      listed everything that we were struggling with  
17      and decided to start coming up with the  
18      solutions that were necessary in order to  
19      return properties back into productive use.

20             After the three-year process, in 1995, our  
21      Land Recycling Program legislation was  
22      enacted.  It is -- involved three acts.  It's  
23      referred to as Act 2, 3 and 2.  What Act 2 does  
24      is it provides uniform clean standards.  Act 3  
25      provides some protections for innocent parties,

1 lenders that might be interested in financing  
2 these sites, economic development agencies that  
3 would like to hold these types of properties or  
4 participate in some public financing. And  
5 there is also Act 4. It also provides for some  
6 public assistance. You're looking at grants  
7 and loans -- low-cost loans -- for remediation  
8 and assessment.

9 When we developed our uniform cleanup  
10 standards, what we did was we called upon a  
11 science advisory board and they spent a lot of  
12 time advising us. They were the experts in our  
13 communities that would be able to define the  
14 appropriate standards.

15 MR. SNYDER: And those standards,  
16 essentially, are broken down into background  
17 standards, statewide health standards -- which  
18 are basically standards that you can look up on  
19 a table and determine how clean is clean -- and  
20 site-specific standards. All three standards,  
21 essentially, are based on a risk protocol one  
22 times ten to the minus four to one times ten to  
23 the minus six. We didn't want to re-invent the  
24 wheel there. We felt that those standards  
25 needed to track the federal requirements. Our

1 statewide health standards, however, our  
2 science advisory board chose to pick a one-  
3 times-ten-to-the-minus-fifth risk level for  
4 those -- and if you think about it, the  
5 standards for statewide health are essentially  
6 treatment and removal standards. So, you  
7 either clean up to background conditions or  
8 you -- either treat or remove under state  
9 health standards or you use the risk assessment  
10 process for a site-specific cleanup.

11 MS. CHAMBERLAIN: What's really good  
12 about this as well is -- all right -- we  
13 established specific cleanup standards. That  
14 made the whole process much better. We knew  
15 what our targets were. Then next thing that we  
16 did was we -- we needed to make sure that we had  
17 a process that -- inside the agency, as well as  
18 outside the agency -- that we could  
19 understand.

20 Clearly defined in the statutes is a  
21 review process -- and with it, we were trying  
22 to build in as much accountability as we  
23 possibly could. When you do a remediation in  
24 Commonwealth of Pennsylvania, there are either  
25 60- or 90-day reviews applied by the

1 department. We are responsive. We realize  
2 what's important is in order to return the  
3 sites back into productive use, to attract  
4 private business, to attract financing, we have  
5 to be timely -- and instead of being afraid to  
6 make a decision, we need to make a decision and  
7 we're making good ones.

8         There's been a great deal of success  
9 involved with our program since it was enacted  
10 in July of '95. In just 42 months, over  
11 700 sites have entered into our voluntary  
12 cleanup program -- and not only are they  
13 entering into the program, we've had over  
14 400 sites being remediated. What we are very  
15 excited about is in addition to having -- a  
16 couple of years ago -- a loss of jobs in  
17 Pennsylvania, we realized and we can track that  
18 we've created over 15,000 jobs as a result of  
19 the Land Recycling Program, as we're able to  
20 combine environmental cleanup with economic  
21 development opportunity. It's one of these  
22 things where we're very pleased to be able to  
23 talk about our program, but we're very pleased  
24 to be even more so now that people are bragging  
25 about us.



1           The Ford Foundation and the Harvard  
2           Kennedy School awarded us with an innovations  
3           award in 1997. We were also very pleased to be  
4           able to receive the innovations award from the  
5           Council of State Governments for our Land  
6           Recycling Program and we're very happy to know  
7           that we are an indicator with the Renew America  
8           Success Index.

9           What's very important here is a total  
10          turnaround of how sites are remediated within  
11          the Commonwealth. It's very interesting to be  
12          participating and hearing the conversations  
13          that are going on here and the -- and the types  
14          of situations you're in. Because what's  
15          happening in Pennsylvania is we have all sorts  
16          of people coming in the door to deal with  
17          department, individuals, Chambers of Commerce,  
18          local government entities, interest groups --  
19          they're coming in the door and they're saying,  
20          "We've identified a site of property and we'd  
21          like to have that enter into the Land Recycling  
22          Program. Where do we begin? How can we start  
23          working with you?" And it's something that is  
24          very exciting to see. Frankly, right now,  
25          people are intrigued with the fact that we have

1 a solid Brownfields program and they want to be  
2 part of it. In other words, the private  
3 sector -- whether it's the community -- they  
4 realize what's happening is we're cleaning up  
5 the sites appropriately and we really are  
6 creating a lot of opportunity within the  
7 Commonwealth.

8 The thing -- I think the other thing that  
9 distinguishes our program from so many others  
10 is we really do have a multiparty process where  
11 we are all united in putting together the  
12 appropriate program. We work very closely with  
13 our Department of Economic Development, as far  
14 as providing all sorts of funding and loans, in  
15 order to develop these sites. We work closely  
16 with the private sector with financing and we  
17 meet with them periodically. We work with any  
18 number of groups to be able to explain the  
19 program and together to that make sure that it  
20 does work.

21 The other thing I think is very  
22 interesting is the fact that the regulator  
23 community comes in very early in the process  
24 and asks us to be actively involved with the  
25 land use planning process. They join with

1 local government, the private sector. They  
 2 bring in professionals dealing with land use  
 3 objectives. They involve us as well as our  
 4 sister agencies dealing with economic  
 5 development and together we develop a very  
 6 solid plan. Based on the land use and  
 7 anticipated uses there, we're able to put  
 8 together a very solid program from an  
 9 environmental remediation standpoint and as a  
 10 result have a very powerful and successful  
 11 program.

12 So, I think -- as far as laying that as a  
 13 foundation, I think, then, we need to talk  
 14 about, "Well, what are we doing, exactly, with  
 15 the military?" We basically look at the  
 16 military sites like any other Brownfield. We  
 17 have some large sites that we deal with within  
 18 the Commonwealth. They happen to be, maybe,  
 19 1,600 acres or so with heavy manufacturing that  
 20 has gone on. So, we think that there is some  
 21 similarity there. Obviously, there are some  
 22 unexploded ordnances and some other fun things  
 23 that the military has to address, but there are  
 24 some common features to these sites.

25 We decided that we had a good relationship

1 with the military and we wanted to do something  
2 further. We knew that we had a lot of shared  
3 visions with the military and we wanted to  
4 capitalize on them. What we found is that we  
5 both wanted to protect the public health and  
6 the environment, that we wanted to be able to  
7 use public participation and sound science to  
8 make sure we did the appropriate outreach and  
9 decision-making -- and, then, the main thing  
10 that we had -- as far as the shared vision --  
11 is we wanted to make sure that we could further  
12 improve our good communications and improve our  
13 coordination and make sure that we were as  
14 productive as we possibly could be with  
15 managing our resources. Frankly, I think what  
16 our shared vision was about was: We're both  
17 government entities and we wanted to make sure  
18 that we were using our resources most  
19 effectively.

20 We were interested in making sure that we  
21 did consider future land use in a remedy  
22 selection process and we were interested in  
23 implementing a Fast-Track Cleanup. We also  
24 wanted to make sure like we are doing for the  
25 public sector that we could minimize or

1       eliminate military environmental liability  
2       after a cleanup. It's important to all parties  
3       to figure out where is the end point and the  
4       more we're able to create certainty the better  
5       off we are. And, frankly, all of these shared  
6       visions resulted in a multi-site agreement with  
7       the military that was executed as of July the  
8       4th, 1998.

9               This all began when I joined the  
10       department about a month or so in. I kept  
11       hearing about the fact that we had a good  
12       relationship with the military and I kept  
13       hearing about it with many different aspects,  
14       whether it happened to be our DCMOA planning  
15       process that way or there were a number of  
16       things that were coming up with ITRC and were  
17       innovative technologies. As I kept talking to  
18       people, I said, "You know, it really makes  
19       sense that we have a multi-site agreement with  
20       the military." So, in September of 1997, I met  
21       with Pat Rivers and some military  
22       representatives and we decided to capitalize  
23       upon our shared vision. We met once or twice  
24       in October and, then, in November of 1997, we  
25       entered an agreement in principle with the

1       Army, Navy, Air Force and Defense Logistics  
2       Agency to see whether we could rally all of our  
3       resources to address all of the military sites  
4       within the Commonwealth.

5               We began our negotiations at the end of  
6       January of 1998 and we set for us a very  
7       ambitious schedule -- and when you think about  
8       the fact that we were negotiating with -- I'll  
9       say a multitude of agencies -- when you  
10      consider the different areas and  
11      responsibilities of cleanup -- it could be  
12      referred to as perhaps a dozen parties.

13             MR. SNYDER: Well, that's right. It  
14      was like negotiating with Westinghouse, GE,  
15      Bethlehem Steel, IT Corporation -- all at the  
16      same time. So, there were really five  
17      different companies or corporations that we  
18      were sitting down and trying to coordinate  
19      with.

20             MS. CHAMBERLAIN: We set a very  
21      ambitious schedule for ourselves. We,  
22      basically, said we wanted an agreement for  
23      July 4th, 1998. Well, think about that. End  
24      at January, we have, at best, five or six  
25      months in order to get the job done. What it

1       took was about 75 folks representing all of the  
2       agencies coming together -- the technical  
3       folks, the lawyers, the policymakers -- it was  
4       from every single layer of our organizations  
5       and what we did was we did create an agreement  
6       and it was ready in June -- on June the 14th --  
7       for the final review and circulation so it  
8       could be executed for July 4th.

9               We think it's a very powerful agreement  
10       and what it does for the very first time is  
11       firmly establish what inventories of sites that  
12       need to be addressed within the Commonwealth.  
13       We think we probably have the best inventory of  
14       sites identified within the country. We  
15       scrutinized all of our sites, clearly  
16       identified them, made sure we didn't have  
17       duplicates as we refer to things with different  
18       names and what we did was we decided once we  
19       had this inventory we were going to make sure  
20       that we focused on partnership and performance  
21       so we could really get the job done. We wanted  
22       to avoid the past practices of bean counting  
23       and we certainly didn't want to use the  
24       enforcement hammer. We didn't think we needed  
25       it at all.

WORKING DRAFT

1           We decided that we wanted to be much more  
2       business like, as I mentioned before -- and  
3       what I really think is important is that we  
4       define some mutual incentives -- that we have  
5       really capitalized on our planning and that we  
6       use innovative technology and that we develop  
7       all sorts of roles and relationships that we're  
8       able to figure out who's doing what so we can  
9       quickly get the job done. We wanted clear  
10      information about past use of different  
11      military properties. We wanted to have some  
12      clear views about what type of remediation was  
13      going to occur at the sites and what had  
14      occurred at the sites and we also wanted to  
15      make sure that at the end of the day we have an  
16      inventory -- we confirm -- that, yes, this site  
17      had been cleaned up.

18           When we put together our agreement, we  
19      captured an inventory of 1,706 sites within the  
20      Commonwealth. We broke them down into  
21      categories and what we did was we identified  
22      53 sites as our scheduled sites and those are  
23      going to be the ones that have been identified as  
24      a priority for cleanup. We have 364 sites that  
25      are the deferred sites -- and, typically, those



1 are the BRACs, the NPLs and the UXOs and the  
2 RCRA corrective actions. We realize that they  
3 have been following a different path and it  
4 happens to be a federal regulatory path, but,  
5 frankly, we are interested in bringing them and  
6 incorporating them into the agreement as soon  
7 as they're able to. The other thing that -- to  
8 be mentioned with the deferred sites is they  
9 still can go through the process of the Act 2  
10 program and we can identify at least one BRAC  
11 site that we'll be using in our Act 2 program,  
12 because they are interested in the finality of  
13 our program. And, then, there have been  
14 instances where they're interested in using  
15 early property transfer mechanisms. So, it's  
16 possible that the deferred sites can capitalize  
17 on some of the concepts already.

18 Finally, the last category is 659 sites  
19 and they're our study sites. They are listed  
20 as completed within Pennsylvania, but they  
21 really haven't received a sign-off from the  
22 DEP. They're going to be under an audited  
23 program, but we want to be able to give the  
24 military some sort of a sign-off once they've  
25 gone through an audit. What we think is really

1 strong for our community and what's really good  
2 for property transfer is that we have a clear  
3 inventory of all of the response complete or  
4 result sites -- and, so, that can really help  
5 us as we benefit in transferring sites back  
6 into the community.

7 The other thing that I think is worth  
8 noting is the elements of the agreement, which  
9 put it, also, into some sort of context. The  
10 DCMOA relationship still stands in place and  
11 it's not superceded by this agreement. It  
12 still functions in the same manner. What we're  
13 doing now under this agreement and we have in  
14 the master plan of all the sites is we are  
15 accelerating cleanup and mostly all the cleanup  
16 at the sites will be occurring by the year  
17 2005 -- and that's almost a decade earlier than  
18 what was originally planned by the military.

19 We are going to be using our Land  
20 Recycling Cleanup Standards -- and the other  
21 thing that we've done is we have just clearly  
22 identified the ways where we can just make a  
23 decision for all of the sites, not to continue  
24 to make a decision on a piece-by-piecemeal  
25 basis. So, we're using our cleanup standards.

1       We are using the relative risk site  
2       evaluation. We've accepted that and we've come  
3       up with a whole process that we can readily  
4       streamline things.

5               We are going to be dealing with the public  
6       and stake -- stakeholders jointly. We are  
7       going to be facilitating innovative  
8       technologies at the sites -- and we just had  
9       our first annual planning meeting last week and  
10      we've identified at least two sites where we're  
11      going to be utilizing innovative technologies  
12      and studying those. We are looking at a number  
13      of early property transfer mechanisms and one  
14      in Pennsylvania that the private sector  
15      utilizes is our buy/sell agreements where  
16      you're able to transfer the property prior to a  
17      cleanup as long as parties have identified who  
18      will be responsible for the cleanup and it's  
19      clearly delineated in a tri-party agreement.  
20      Our buy/sell agreements have the buyer, the  
21      seller and the department participating. All  
22      of the environmental due diligence is noted  
23      within that agreement, although the cleanup is  
24      noted as far as what needs to occur. There's a  
25      time line and an assignment of responsibilities

1       under those agreements. And, so, if there's a  
2       failure, the department has the ability to go  
3       back in and enforce that agreement.

4               We have generic work plans and presumptive  
5       remedies. So, we're not doing those anymore on  
6       a piecemeal basis and we're also working  
7       together on natural resource inventories for  
8       land use and preservation purposes. The  
9       voluntary process is going to be a 12-year  
10      master plan and it allows us to consolidate and  
11      prioritize our work. I had made reference to  
12      last week that we began our annual plan. We  
13      have our 12-year master plan and, on an annual  
14      basis, we're getting together to figure out  
15      what sites should be dropped down into the  
16      annual plan so we can make sure that they're  
17      accomplishing our goals. We're meeting all of  
18      the military together and making sure that we  
19      are prioritizing our work and make our best  
20      efforts to fully fund these annual plans.

21              MR. SNYDER: And the idea of the  
22      master plan, essentially, is to take the site  
23      either as a site or as -- as a management phase  
24      development -- and -- and do a -- basically,  
25      a strategic business plan for those sites,

1       because -- when the money is going to be  
2       available from the military, when will the  
3       resources be available, when will the resources  
4       be available from the commonwealth -- and  
5       that's essentially planned over -- through --  
6       for a period of time for about the year 2000  
7       and -- I think it's ten.

8           As Denise said, originally, the military  
9       was planning on having those cleanups conducted  
10      by the year 2014 -- and when you put them on  
11      the master planning schedule and looked at them  
12      and looked at when the cleanup were going to  
13      occur, they, in fact, all were going to occur  
14      in year 2005 -- a decade earlier than was  
15      originally planned. And, so, what happens is  
16      that those -- those sites or phase get --  
17      get -- get transferred or transmogrified from  
18      the master plan into the annual planning  
19      process so that folks can basically on an  
20      annual basis see what the work effort is and  
21      basically use that as an opportunity to be  
22      flexible, to basically shift sites based on  
23      money, based on priorities and based on work --  
24      and, in fact, it's already working.

25           At our first annual planning meeting,

1       there was a site in the Lehigh County area --  
2       it happened to be a Marine training base -- and  
3       that was scheduled on the master plan to be  
4       done in the year 2003. Well, the economic  
5       development authority came to us and said,  
6       "Hey, we have a tire manufacturing facility  
7       that wants to come in now" -- "today, this  
8       year" -- "and they want to essentially take  
9       over that particular piece of property. They  
10      want to do the cleanup. Can we have it? Can  
11      we have that happen?" Well, we talked to the  
12      folks and -- and we looked at the FUD  
13      schedule -- it happened to be a FUD's  
14      application -- and they looked at it very  
15      closely and they said, "Yeah, we can do it."  
16      So, they moved that site from the cleanup  
17      schedule from 2003 to do it now. So, probably  
18      by the third quarter of this year, that site,  
19      essentially, will be transferred over and there  
20      will be a new economic development enterprise  
21      in Lehigh Valley -- and that's really the way  
22      to do things.

23             And, frankly, one of the things that we  
24      should mention is that in order to accomplish  
25      that -- the FUDS only have a finite amount of

1 money -- so one of the aspects of our agreement  
2 is that we will forego our oversight costs. We  
3 will turn back to the military, under our  
4 DSMOA, the money that they were going to pay to  
5 us under the pretext that that money goes to  
6 doing more cleanups in our state. So, we don't  
7 need the oversight on this. We need cleanups  
8 in our state. We need environmental protection  
9 and we need economic development. As far as  
10 the money is concerned, our staff get paid by  
11 the Commonwealth of Pennsylvania and they get  
12 just -- paid as much for fighting as they do  
13 for margining. So, as far as we're concerned,  
14 that's where the rubber should hit the road --  
15 economic development and environmental  
16 protection -- and that's how that site got  
17 cleaned up earlier -- and it never would have  
18 gotten cleaned up until the year 2002 and  
19 maybe -- maybe further on down the road.

20 MS. CHAMBERLAIN: We really  
21 appreciate the fact that the military is  
22 listening to our communities when they identify  
23 a site that they'd like to hurry up and have  
24 cleaned up so that they can take it into some  
25 productive use.

1           We think it's really important, too, the  
2           mechanism that we have in place where we have  
3           the DoD rec coordinator that is taking a look  
4           at all of the cleanups that are going to be  
5           taking place within the Commonwealth. I know  
6           because of devolvment and all sorts of other  
7           concepts within the military structure, they  
8           have in the past acted in a relatively separate  
9           fashion. But what's really good with our  
10          annual process is they are coming together  
11          under the -- the facilitating of DoD rec  
12          coordinator and everyone is talking about the  
13          work that they're going to be doing this year  
14          and there's an ability to use some contracting  
15          resources or at least have some awareness about  
16          what type of things are going to be done at a  
17          site. Oftentimes, more than one military  
18          branch utilizes a base. They can rally their  
19          resources at a particular location to the  
20          extent it makes sense.

21          We, too, have been interested -- in  
22          addition to our DSMOA oversight forgiveness  
23          have also been offering all sorts of other  
24          services available. There might be in the FUDS  
25          context some ability to fund orphan shares. We



1       are willing to do that so we can further move  
2       along with FUDS cleanups. We were so bold as  
3       in -- we are very interested -- from an  
4       economic development standpoint, it is possible  
5       that we might like to fund the remediation of a  
6       particular site. It might be that we would  
7       like to just do it wholeheartedly or we'd like  
8       to be able to receive money back later on down  
9       the road. Let's just say Congress is a little  
10      slow in making that the military have the money  
11      it needs. Maybe we'd like to step in a little  
12      earlier. We weren't able to go that far  
13      because we are constrained by some statutes  
14      that are out there. But, frankly, we really  
15      want to create a very dynamic resource here and  
16      a very powerful program where we are really  
17      focused on what counts -- and that's the  
18      cleanup. So, we're willing to offer our  
19      services and our resources. We really would  
20      appreciate it if the military would have the  
21      ability to accept that. But to the extent that  
22      we possibly can within all of our laws and  
23      regulations, we are making sure that we are  
24      scheduling our work appropriately and  
25      maximizing our ability to use our resources,

WORKING DRAFT

1 both personnel, as well as funding.

2 The other thing, too, I think that helps  
3 us with accountability is we are putting  
4 together an annual report and I think that  
5 motivates everybody -- you know, top to  
6 bottom -- as far as, are we really making a  
7 difference? So, we're looking at this  
8 agreement itself from an accountability  
9 standpoint. We'll be able to look  
10 year-by-year. Did we really make a difference  
11 or are we stalled under our prior thinking no  
12 matter what type of context it's in, as far as,  
13 "Oh, yeah. Well, it's out there in the  
14 system. It's sort of moving along as the years  
15 slip by?" We're going to be taking a real  
16 strong look at ourselves and figure out, "Are  
17 we really performing to the best of our  
18 abilities?" We, the state, will be doing so,  
19 as well as each military branch and we  
20 appreciate that type of accountability and  
21 thoughtfulness and planning.

22 We do have an expedited review process.  
23 We are going to be utilizing the 60- to 90-day  
24 review times. We have basically told the  
25 military that if they need any information

1       about our state discharge or emission  
2       standards, we will be getting back to them  
3       within 30 days. Their request will not be  
4       going into any kind of black hole.

5               We're interested in providing, as Jim  
6       mentioned, forgiveness for oversight costs. If  
7       they happen to do some extra work within any  
8       given year, we will reward performance. We are  
9       interested in making sure that they have site  
10      access -- and sometimes we know that that can  
11      be very difficult in a FUDS context.

12              MR. SNYDER: That's particularly  
13      important where you have third party  
14      involvement where it's a lease arrangement and  
15      the Army -- or the military, I should say --  
16      has a difficult time getting the property. The  
17      way the agreement is structured is they get a  
18      chance to see if that can -- can happen --  
19      and if it can't, then the Commonwealth will  
20      stand up and give them a hand.

21              MS. CHAMBERLAIN: The other thing,  
22      too, is we are making sure that we are  
23      introducing the military to our local  
24      governments, as well as making sure that  
25      they're meeting with the right people who are

1       doing a lot of the land use within the  
2       communities and making sure that we're making  
3       the right introductions so that there can be as  
4       broad information sharing as possible. So, we  
5       think that there's going to be a lot of  
6       benefits to early transfer in making those  
7       right type of connections and tapping into our  
8       existing resources and utilizing our buy/sell  
9       agreements. We think that those are very  
10      strong mechanisms for early property transfer  
11      and appreciate the fact that the military, like  
12      our private sector, is interested in coming in  
13      with their plans and coming in early so we know  
14      that we can be notifying our communities as far  
15      as the different time lines involved so we can  
16      let our communities start to think about the  
17      fact that certain acreage will be available for  
18      future use -- and it starts the -- the  
19      communities down a parallel track as we start  
20      to discuss the remediation.

21           We think that this is a real big program  
22      that has a lot of benefits to all of our  
23      citizens -- at least from Pennsylvania  
24      standpoint, we think that we are making very  
25      good use of federal tax dollars as well as

1 state tax dollars. I think we're going to have  
2 federal tax dollars better managed through this  
3 process and we think that it's very important  
4 to highlight the fact that we think our mutual  
5 trust and cooperation that we've been able to  
6 develop really shows that government can come  
7 up with some good solutions.

8 We just have this progress -- this project  
9 underway and we're just reporting to you what's  
10 occurred so far with our annual report and our  
11 annual planning process, but what I think is  
12 really encouraging is: We've already made very  
13 important steps to create these inventories, to  
14 share databases, to identify processes, to  
15 already move sites down into the process, to  
16 begin with innovative technologies at different  
17 sites. We're very encouraged with the  
18 relationship that we've developed with the  
19 military. We think it's very strong and we  
20 hope that we will be a very fine example for  
21 the rest of the country.

22 Can we answer any questions?

23 MS. PERRI: Yes. I think we all have  
24 some questions.

25 I appreciate your remarks this morning

1       and -- I don't know where to begin. I think  
2       Pennsylvania is -- is DoD winning the lottery.  
3       We -- We really found wonderful partners in  
4       Denise and Jim -- and as we discussed  
5       yesterday, it's a personality-driven process as  
6       much as anything -- but these two have really  
7       brought their energy, creativity and brains to  
8       helping us sort this very tough and difficult  
9       problem -- but we do have solutions.

10             Yesterday, we heard a little bit about  
11       California -- the DSMOA process -- and why it  
12       maybe has gone through some rough spots -- and  
13       all I can say is: We need to move forward and  
14       we need to look at some of these new options --  
15       30-day deadlines -- and having the military  
16       know where the paperwork is -- 60 days at the  
17       latest, forgiveness for oversight, which is --  
18       is a new one. California gets half the DSMOA  
19       money that the department spends for -- for far  
20       less results.

21             MR. PHILLIPPE: I don't think we get  
22       half. 29 percent is what the office told me.

23             MS. PERRI: Okay. Anyway -- but you  
24       get a lot -- and -- and I'm just saying I  
25       think there's -- there's a lot of good ways to

1 do business and one of the best ways, as -- as  
2 Denise has pointed out, is -- is working  
3 together, having us get to know your community  
4 so we can understand what the needs are,  
5 bringing in other sources of funding as we  
6 discussed yesterday -- EPA and others -- to  
7 really make things happen.

8 The military is committed to helping meet  
9 these deadlines and it is the number one  
10 priority of the cleanup office -- in the top  
11 ten for all environmental securities, top ten  
12 for A&T -- to use this voluntary approach,  
13 because getting the cleanups done rather than  
14 the oversight is really where we're at. We see  
15 that as a more measurable result rather than  
16 just make progress to -- to doing more studies.

17 And, Denise, I was wondering if you could  
18 just comment on how Pennsylvania got to the  
19 point where they could give up the oversight in  
20 such a detailed way and feel comfortable with  
21 the fact that the cleanup would be done  
22 properly. Can you explain that in a little bit  
23 more detail?

24 MS. CHAMBERLAIN: Well, I guess one  
25 of the things that is worth noting is we do

1       happen to have a good budget for our  
2       Land Recycling Program as well as our  
3       Hazardous Sites Cleanup Program.  These are a  
4       version of Superfund and it's more in the  
5       enforcement line.

6               We have approximately 80 to 100 people  
7       that participate in our Land Recycling and our  
8       Contaminated Property Programs and I think what  
9       it does -- what we have and have had in place  
10      for a number of years is good state funds  
11      available.  We do have special funds and -- Jim  
12      and I thought this question would come up and  
13      we were teasing about -- Well, the last time we  
14      took a look in our account -- I believe we have  
15      \$100 million in the program.  So, we can be  
16      supportive of that.  We do have the appropriate  
17      staffing levels.  We do happen to have the  
18      appropriate funds available.  We think it's  
19      appropriate that we direct those funds to the  
20      extent that we can to the military sites as  
21      well as to the ones that we're doing in the  
22      private sector.

23               MR. SNYDER:  But we still -- we still  
24      treat these -- these remediations and these  
25      properties as -- as just a straightforward



1 cleanup. So, if I have a staff person who's  
2 working on a cleanup for a business entity, he  
3 or she basically just shifts their  
4 responsibility and works on one with the  
5 military -- and there's no difference as far as  
6 we're concerned -- and -- and those folks who  
7 are environmental -- environmental cleanup  
8 managers really don't -- we really don't want  
9 the federal government to provide us with those  
10 oversight monies -- because, in fact, that's  
11 why I'm paying my staff. I mean, that's what  
12 the Commonwealth is paying them to do.

13 We don't really think it's appropriate to  
14 create a new organizational structure and new  
15 entities in order to do something that -- that  
16 our statutes and -- and statutes of other  
17 states basically require them to be doing. So,  
18 we -- we really think that it was a great  
19 opportunity for us to turn those monies back  
20 because it's -- we're getting more bang for our  
21 buck.

22 MS. PERRI: I have one more question  
23 and, then, I'll -- I'll go around the panel.

24 How are you addressing the issue of  
25 institutional controls? We heard a lot about

1       that yesterday -- and as you know, it's the  
2       Department of Defense's philosophy that land  
3       use does reside with the local government and  
4       with the local community, not with the federal  
5       government and not with federal monitors. But  
6       how are you handling that to make sure that  
7       there is appropriate precautions for future  
8       users?

9               MS. CHAMBERLAIN: Well, our  
10       institutional controls do protect any type of  
11       engineering control that has been placed at the  
12       property. Let me just say that for most of our  
13       properties, most of the sites under the  
14       Land Recycling Program have either selected the  
15       background standard -- or the majority have  
16       selected our statewide health standard. So,  
17       there really isn't going to be a need for  
18       institutional controls.

19       When institutional controls are applied at  
20       a site, we are interested in being protective  
21       of them and we employ a number of mechanisms so  
22       that they can be appropriately enforced. We  
23       are looking at the deed notices and the  
24       restrictions being filed within the property  
25       records -- and most of the time when

1 institutional controls are employed, we do have  
2 them captured in our buy/sell agreement -- and  
3 as I mentioned, that's a tri-party agreement --  
4 so that the enforceability is there either as  
5 the seller of properties -- let's say, for  
6 example, the military -- or we believe that the  
7 department needs to enforce them, that the  
8 department also has a contractual right to  
9 enforce the institutional controls, as well.  
10 So, when you take a look at the enforcement of  
11 institutional controls in the Commonwealth,  
12 you're looking at the fact that the department  
13 has statutory ability for enforcement. There  
14 are reopeners that addresses that under our  
15 Land Recycling Program. Second of all, there  
16 are some legal rights according to our property  
17 laws within the Commonwealth and we have a  
18 third mechanism that we have employed which is  
19 our buy/sell agreement so that the department  
20 has the contractual rights, as well.

21 MR. SNYDER: But it should be clear  
22 that institutional controls are not a remedy in  
23 and of themselves, that, in fact, fencing and  
24 or deed restrictions are there to protect a  
25 remedy -- meaning the remedy that was -- that

1       was implemented by the remediator -- whether  
2       it's a cap or whether it's a cleanup option --  
3       I mean -- Well, you just don't, basically,  
4       place a fence around a site and call it an  
5       institutional control and say you have  
6       eliminated direct contact threats, therefore,  
7       you can go on your merry way. They're  
8       basically for -- to protect remedies.

9               MS. PERRI: Okay. Brian, do you have  
10       a question?

11              MR. POLLY: Yes. A very good  
12       presentation.

13              If I could ask you a couple of question on  
14       the buy/sell agreement, you talked of the  
15       review about specific time lines,  
16       responsibilities. Do you also deal with  
17       funding -- on who has responsibility for  
18       providing funds so that's in as part of an  
19       agreement or do you rely on the time line?

20              MS. CHAMBERLAIN: For the most part,  
21       we rely upon the time line.

22              MR. POLLY: All right. The second  
23       thing, as far as the inventory of sites, do  
24       you-all -- because we've been to  
25       Pennsylvania -- specifically to Pittsburgh and

1 to Philadelphia to talk to the mayor's office.  
2 They have geographic information systems. Do  
3 you have the same thing at a statewide level?

4 MS. CHAMBERLAIN: We are underway  
5 with preparing a more sophisticated GIS  
6 system --

7 MR. POLLY: So, you are aware of  
8 them.

9 MS. CHAMBERLAIN: Yes. And we are  
10 capturing all of those existing systems -- and  
11 we have the ability to tap into those right  
12 now.

13 The other thing that we have, too, within  
14 the department that's worth mentioning is we  
15 have a Brownfields inventory. So, if anyone is  
16 interested in selling contaminated property  
17 within the Commonwealth, they're able to use  
18 that inventory and offer it for sale. So, if  
19 the military has some sites that they'd like to  
20 advertise, that's possible to do so with our  
21 Brownfields inventory.

22 MR. SNYDER: Just put it in our web  
23 site and advertise your site for sale -- and --  
24 and we also will be developing that GI  
25 capability -- that's in the process.

1                   MR. POLLY: And I presume you would  
2                   have the same capability for NPL sites, too,  
3                   right?

4                   MS. CHAMBERLAIN: Yes.

5                   MR. POLLY: Okay.

6                   MR. SNYDER: You should note -- note  
7                   that we do have an inventory of 1,076 sites and  
8                   those are basically on hard copy and they're --  
9                   and they are by county, municipality and --  
10                  and, of course, military organization. So,  
11                  anybody can look that up and know where the  
12                  sites are in the Commonwealth, either from an  
13                  economic development point of view -- or if  
14                  they're interested in what remediation stands,  
15                  they can very readily find that out.

16                  MR. POLLY: The other thing you  
17                  talked a little bit about is involvement of --  
18                  and -- a lot of participation -- and as you  
19                  heard yesterday, there are lot of conflicting  
20                  desires on everybody's parts. Looking at  
21                  townships, the counties, the cities that you  
22                  deal within the state, how do you make sure  
23                  that the citizenry overall are involved in this  
24                  process? Can I ask you to elaborate a little  
25                  bit on that?

1                   MS. CHAMBERLAIN: Call me a  
2                   traditionalist -- or call Pennsylvania a  
3                   traditionalist. We're old-fashioned enough  
4                   that we believe that we should rely upon the  
5                   people that we elected into office and we like  
6                   to think that the people that we've elected  
7                   into office -- we've elected them because  
8                   they're good decision-makers. We let local  
9                   government deal with what they have been  
10                  dealing with historically -- and that is all  
11                  the zoning issues as well as the planning for  
12                  their community. If there are any type of  
13                  disagreements as a result of land use or  
14                  changes in zoning -- or perhaps it's what is  
15                  going to be developed at the property -- we do  
16                  make sure that they are doing -- they are  
17                  communicating with the local government through  
18                  the typically-employed mechanisms that we have  
19                  had for decades.

20                 MR. SNYDER: The other thing that I  
21                 would add to that, as well, is that we have  
22                 chosen to integrate, also, our public  
23                 participation process and notice requirements  
24                 under our statute with the military and RAB  
25                 process. So, the agreement does reflect the

1       RAB -- where they exist -- and it also  
2       reflects the fact that under our statute, when  
3       you conduct a remediation, there are notice  
4       requirements, there are newspaper publishing  
5       requirements, there are requirements to provide  
6       copies of what you submit and what you're doing  
7       to the local municipality.

8               We also offered our Solid Waste Advisory  
9       Committee, which is a statewide group a  
10      citizens, business leaders, environmentalists  
11      and so forth, to sit and advise us and the  
12      military collectively on an individual site  
13      question or an individual policy issue that --  
14      that comes up and perhaps needs to be  
15      resolved. And we've also offered our community  
16      relations coordinators in order to introduce  
17      the military to the public, to the  
18      environmental community, so that they can more  
19      effectively deal with those folks during the  
20      reuse process. We learned a long time ago that  
21      you need someone who is a specialist in that  
22      area, not a PR person, not someone from the  
23      front office, but someone who works in the  
24      field and who's trained in community relations  
25      and, in fact, can carry the message back and



1       forth between the client and the public.

2               MR. POLLY:   Okay.   Thank you.

3               MS. PERRI:   Stan?

4               MR. PHILLIPPE:  Yeah.  Thanks, Denise  
5       and Jim.  Good presentation.

6               I'm kind of -- I've got a lot of  
7       questions, but I won't try to spend all the  
8       time -- I'd like talk to you on the side, but  
9       also --

10              MR. SNYDER:  That's okay.  We have to  
11      catch a plane sometime today.

12              MR. PHILLIPPE:  Yeah.  Well, I -- I  
13      see you occasionally.

14              The issue of how you arrived at your  
15      numerical standards:  As I understood what you  
16      said there are three choices that can be made  
17      for how to arrive at a cleanup level.  One is  
18      background, one is a numerical standard based  
19      on a ten to the minus fifth risk --

20              MR. SNYDER:  Right.

21              MR. PHILLIPPE:  -- for carcinogens  
22      and, then, if the -- is it a responsible  
23      party's choice as to which track they'd want to  
24      use --

25              MR. SNYDER:  Yes.

1                   MR. PHILLIPPE:  -- versus -- also a  
2                   risk assessment process.

3                   MS. CHAMBERLAIN:  Yes.

4                   MR. PHILLIPPE:  So, they can come to  
5                   you and say, "We'll take that numerical  
6                   standard and go with it and get out of here"?

7                   MR. SNYDER:  They can -- They can  
8                   choose any one of the three or a combination.  
9                   The reason -- I mean, we're finding, frankly,  
10                  that for the most part -- except for some of  
11                  the real, real complex sites or sites, frankly,  
12                  where business and/or the military wants to  
13                  maintain the -- control over -- that they'll go  
14                  in -- they'll monitor the treatment and removal  
15                  and be done with the liability -- and because  
16                  we do give a release of liability, it's --  
17                  it's -- it's off their books, it's out of  
18                  their minds, it's -- it's -- they can go on and  
19                  do -- in the military's case -- the thing that  
20                  they know how to do best -- and that's  
21                  defense.  So, as far as we're concerned -- we  
22                  think that's why folks are choosing the  
23                  statewide health standard.  But if you choose a  
24                  site-specific standard, you -- you would go at  
25                  it just strictly from this point of view.

1                   MR. PHILLIPPE: Now, what is the  
2                   basis of land use assumption for the statewide  
3                   health standards? Is it an unrestricted use  
4                   assumption or do you have standards for  
5                   industrial or different standards?

6                   MR. SNYDER: We have two,  
7                   basically -- I shouldn't say two sets of  
8                   standards -- but -- I mean, there are direct  
9                   connect standards, there's soil and groundwater  
10                  pathway requirements, but in essence those are  
11                  all ousted to, basically, two broad categories,  
12                  residential or nonresidential uses. So, if  
13                  it's a residential use that's apparently being  
14                  employed, then it would be a restricted cleanup  
15                  standard. If, in fact -- because when you --  
16                  we devised those standards -- you know, the  
17                  typical risk assessment gets done, you use a  
18                  different set of perimeters in your modeling.  
19                  If it's a nonresidential application,  
20                  obviously, the standards are somewhat different  
21                  because of the exposure assumptions that are  
22                  used.

23                  MR. PHILLIPPE: And, finally, is  
24                  ecological risk accounted for in the  
25                  standards?

1                   MR. SNYDER:  There is an ecological  
2           process.  I think if -- if you do enough  
3           investigation, you will find out that there  
4           are -- there is no standard that anyone has  
5           been able to come up with that deals with human  
6           health and -- and the environment both  
7           together.  And, so, in order to protect the  
8           ecological risk, there is a screening process  
9           that a person has to go through.  It's based on  
10          acreage size at a site and -- and, essentially,  
11          what they find.  And, so, you go through the  
12          screening process -- and I won't -- I'll cut  
13          the answer short -- but if you get to a certain  
14          point in the screening process, then you're  
15          required to hire a professional to come on site  
16          and do a further evaluation.  But, typically,  
17          if you're in an industrial area -- urban  
18          area -- you really don't get too, too involved  
19          in ecological risk kinds of assessments, but we  
20          have gone through a number of them in the rural  
21          areas of our state and the process works very,  
22          very well.

23                   MR. PHILLIPPE:  Just -- just --  
24          now, off of the standards for one last question  
25          and that's:  What is the source of

1 Commonwealth's funding that supports your  
2 staff? Is it a general fund base or is it  
3 from --

4 MR. SNYDER: Two sources. One is a  
5 general fund and the other is a half of one  
6 percent on the capital stock and franchise  
7 tax. So, if you come to our state and eat  
8 Burger King and McDonald's and so forth, you're  
9 helping the remediation process.

10 MS. PERRI: Okay. Steve?

11 MR. ROGERS: I'd like to follow up  
12 just a little bit on Brian's question in terms  
13 of -- you said you integrate public  
14 participation process with the RABs or the  
15 military bases. Could you tell me what is the  
16 public participation process, in general, for  
17 your agreements, both -- you sound like you've  
18 got a -- sort of an umbrella 12-year master  
19 plan and an annual planning process. How does  
20 the public participate and respond to what  
21 you're doing in each of those processes?

22 MR. SNYDER: That is done on a  
23 site-by-site basis. We also found out a long  
24 time ago that it's probably not appropriate to  
25 use a cookie cutter approach. Because there

1       are many sites where, really, the public is  
2       interested through their municipal government  
3       and economic development. Obviously, they're  
4       interested in good environmental protection, as  
5       well. But they're interested in -- not  
6       necessarily rolling up their sleeves and  
7       evaluating each and every single step of the  
8       process -- they just want to be assured that it  
9       is a -- it is a process based on sound science  
10      and that they can have an expectation that they  
11      will be protected at the end of the process.  
12      So, there are some folks who are not interested  
13      in participating whatsoever.

14             On the other hand, there are folks who --  
15      who -- as through the RAB process,  
16      essentially -- are interested in participating  
17      so -- so that that relationship is on a  
18      site-by-site basis. So, we haven't re-invented  
19      a new process to deal with the multi-site  
20      agreement that Denise and I just described.  
21      It's -- It's based on a site-by-site basis.  
22      And, then, those interests are brought to the  
23      table by either our department or the military  
24      and they're integrated into the annual planning  
25      process.

1                   MS. CHAMBERLAIN:  What we have done,  
2                   too, is -- with the Land Recycling Program --  
3                   there are notices that are required to be  
4                   published within the Pennsylvania Bulletin, so  
5                   it's the equivalent of the Federal Register, if  
6                   you will.  And, then, we also have notices for  
7                   the different brand of newspapers that are  
8                   required, as well.

9                   The main thing is -- is the local  
10                  communities know that they need to be in  
11                  contact with municipalities -- is the first  
12                  step to raise up some of the issues -- and,  
13                  then, we also do get involved with them.  We,  
14                  as Jim said, don't think that a cookie cutter  
15                  approach applies in every instance.  And, so,  
16                  when we do happen to have a site where there is  
17                  an interest for public participation, we do  
18                  make sure that we are touching the right  
19                  basis.  And, so, what happens is the parties  
20                  come together -- and I'm talking the local  
21                  government, the folks that are interested in  
22                  the remediation process and the department --  
23                  and we come up with a plan that's going to make  
24                  sure that we're hitting the right mark.  And,  
25                  so, there's a plan involved.  Because at times,

1       you'll find that maybe the general circulation  
2       of newspapers isn't really where everybody's  
3       getting their information. Maybe it's more  
4       appropriate to do it through the -- the  
5       different churches. So, we try to figure out  
6       what's going to be the appropriate contact for  
7       a community to make sure that we're getting the  
8       word out. And a lot of the assistance that's  
9       given is what Jim had mentioned earlier. We  
10      have our community relations coordinators that  
11      have more of an idea about what makes sense  
12      within the community and that's one of the  
13      primary folks that we engage to figure out  
14      how -- we're making sure that we're getting the  
15      message out.

16               MR. ROGERS: Second question on a  
17      slightly different topic: The agreements that  
18      you have entered into, are these considered  
19      enforceable agreements and -- and subject to  
20      citizen suits or how -- how would you -- be  
21      sure that they're followed?

22               MS. CHAMBERLAIN: Well, this is --  
23      this is one of these things where there is an  
24      agreement of accountability and when you really  
25      get down into enforcement -- who can enforce



1       this agreement and what else -- what's it all  
2       about -- frankly, what we're looking at here  
3       is -- it's an agreement of accountability.  
4       It's based upon cooperation. We do have a  
5       dispute resolution process and it's similar to  
6       DSMOA and it -- and we think that we will be  
7       able to resolve our issues. But what we  
8       decided to do is -- we decided that it would be  
9       appropriate for all of us to maintain our legal  
10      rights. So, if there is not a cleanup that's  
11      being appropriately conducted or if we feel as  
12      though we do have to bring out that old tool,  
13      the enforcement hammer, we will do so. So, we  
14      do have that available.

15               MR. SNYDER: But the important thing  
16      to understand, though, is that even though --  
17      even though, perhaps, the dispute resolution  
18      process may not work on an individual site, the  
19      way the agreement is constructed, that site is  
20      set aside. So, we and the military could be  
21      arguing about it, but it doesn't affect the  
22      rest of the plan. The rest of the plan moves  
23      forward. In fact, the two parties having a  
24      dispute they can't resolve shouldn't --  
25      shouldn't rise to the level of taking the

1       entire agreement for 1,076 sites place and  
2       placing those in jeopardy. So -- you know, we  
3       may agree to disagree as -- as professionals --  
4       and there are forums that -- to be resolved  
5       in. We don't expect that that's going to  
6       occur, however. The working relationship and  
7       the trust that's built up between my staff and  
8       the military is -- is outstanding. I mean,  
9       you -- you just wouldn't believe it -- and when  
10      you sit down in a room and they're working  
11      together to solve the problem, it's just a  
12      phenomenal thing to see and I'm very encouraged  
13      by it -- and everybody has been handling  
14      themselves as true professionals.

15               MS. PERRI: Okay. Thank you.

16               Paul?

17               MR. REIMER: I believe that the DERTF  
18      was at the Philadelphia Navy yard in '95, if I  
19      think back and I believe we first heard that  
20      you were on your way with this program -- just  
21      maybe a little bit at the time. You certainly  
22      have made some remarkable progress and we're  
23      very appreciative of you bringing the results  
24      to us.

25               A couple of things just for me to put it

1       into the context of our use through the DERTF,  
2       I think of -- I wonder how many BRAC sites you  
3       have. I think the Philadelphia Navy yard in  
4       Warminster and the Indian County Gap  
5       (phonetic). How many more BRAC sites do you  
6       have?

7               MS. CHAMBERLAIN: Well, all together  
8       with our sites, we're looking at -- there's 364  
9       deferred sites -- and I can't break those out  
10      separately -- but those are the BRACs, those  
11      are RCRA corrective action, those are the  
12      unexploded ordnance sites and the NPLs.

13             MR. SNYDER: I don't have that number  
14      with me, I don't think, but we do have that.

15             MR. REIMER: But I was trying to  
16      understand where you are in, specifically, the  
17      BRAC process. Those would be FUDs and all of  
18      the rest of the -- that you have. Are there  
19      more than three or four or four or five that  
20      are on the BRAC list?

21             MR. SNYDER: I would say -- yeah --  
22      I would say that's about -- about correct --  
23      and those are -- those are going along on the  
24      BRAC track, so to speak, and the NPL sites are  
25      going along that track, as well. We decided

1 not to encumber those processes with this  
2 agreement. What we did is the reverse. We  
3 took this agreement and constructed it in such  
4 a way as to be a receiver for a BRAC site,  
5 either a new one that, basically, decided to be  
6 worked on or even some of the older ones that  
7 are in process. At any point in time, they can  
8 become a part of this agreement and -- and fit  
9 into the planning process. But, today,  
10 tomorrow and the next day, they are eligible to  
11 come in under our Act 2 program to, basically,  
12 take advantage of our cleanup standards and to  
13 get the release of liability. So, that process  
14 is -- is still ongoing. This business plan --  
15 This planning document does not have BRAC in  
16 it, however.

17 MS. PERRI: Paul?

18 MR. YAROSCHAK: Paul, in answer to  
19 your question, I just want to say from the  
20 military's point of view that things are  
21 working so well that we clearly would be  
22 amenable to bringing those other sites into the  
23 program. As Denise said, initially we were a  
24 little worried that we already have a process  
25 underway with BRAC, et cetera, didn't want o

1       upset that. But I think since this is so  
2       streamlined -- working so well -- I don't  
3       know why we just don't do it.

4               MR. CHOUDHURY: For the record, the  
5       last speaker was Paul Yaroschak.

6               MR. REIMER: A little more detail.  
7       Under your Act 3 for the protection to the  
8       ultimate user, is that essentially a covenant  
9       not to -- for no further action? Is that how  
10      you handle it?

11              MS. CHAMBERLAIN: Let me clarify.  
12      Under the Act 2 program, once a site has been  
13      cleaned up appropriately and once it's met one  
14      of the standards, the protection is available  
15      for the responsible party as well as any new  
16      person that enters that site and it is a  
17      statutory release from liability. So, it is by  
18      statute. You will not find any type of  
19      negotiation as far as what will the letter look  
20      like. It is not a covenant not to sue. It is  
21      not a "No Further Action." There is a  
22      statutory release from liability.

23              I had mentioned Act 3 and Act 3 provides  
24      separate protections to innocent parties -- and  
25      those would be the banks that have never been

1       associated with the site, an economic  
2       development agency, others that might be  
3       interested in either foreclosing upon  
4       contaminated properties or ones that would want  
5       to finance those sites -- and they have  
6       received protection from liability as well  
7       since they did not do any of the release of the  
8       contaminants associated at the site.

9               MR. REIMER:  Could you furnish us a  
10       copy of nomenclature on that or --

11              MR. SNYDER:  Oh, yes.  Absolutely.

12              MR. REIMER:  I would be  
13       appreciative.

14              Finally, then, one of the things that we  
15       have heard in talking about either the issues  
16       of Brownfields that bring BRAC and Brownfields  
17       together or keep them apart -- it seems as if  
18       you may have bridged an important gap that  
19       we've heard before.  In the case of the  
20       military sites like many -- I suspect like many  
21       others you deal with -- the polluter is  
22       known -- and that seems to have been the  
23       differential -- Brownfields, essentially, in  
24       kind of a generic sense dealing with the sites  
25       where the polluter is long gone and, therefore,

1       the direct -- the trail of responsibility may  
2       have hit some form of dead end -- and,  
3       here again, then, the ability for the state to  
4       intercede here becomes important. But you  
5       bridged the gap to say that you're offering  
6       your program to the -- where the polluter is  
7       still known?

8               MS. CHAMBERLAIN: Yes.

9               MR. SNYDER: Oh, yes.

10              MS. CHAMBERLAIN: Yes.

11              MR. REIMER: And do you do that in  
12       the sense, then, of -- of -- you do not break  
13       down the line of that continuing  
14       responsibility -- or is the state essentially  
15       simply saying by the voluntary act --  
16       accepting the standards -- and, then, the  
17       cooperation -- that when you get to the end of  
18       the line, you'll tell them they're done and  
19       they're no longer responsible under the -- on  
20       the basis of the specific action that the --  
21       and the specific defense against future action  
22       that the State can offer?

23              MS. CHAMBERLAIN: That's right.

24              MR. REIMER: That's exactly how you  
25       do it?

1 MS. CHAMBERLAIN: Yes.

2 MR. SNYDER: That's exactly right.

3 And they are coming forward. I mean, we have  
4 provided certainty in the standard. We have  
5 removed the mystery. We've removed the  
6 endless, "We need three more wells. We need  
7 ten more samples. We need 53 years worth of  
8 monitoring in order to assure things take  
9 place."

10 If we had a pump-and-treat system that was  
11 established as a part of a cleanup objective,  
12 what we do is, we would ask for a final report  
13 to be submitted, which would, basically, be a  
14 description in great detail of how the site was  
15 remediated -- and if it had to do with a  
16 pump-and-treat system, we would, essentially --  
17 they would be estimating how long it would be  
18 functioning, when they believed their -- the  
19 acidotic curve would be reached in -- in the  
20 groundwater regime -- and, essentially, what  
21 they would do, then, is we would give them a  
22 release from liability when they turned the  
23 switch on and the pump-and-treat system  
24 started. They would get to release at that  
25 point in time, but their final report, then,



1 would, basically, further delineate their  
2 future obligations -- basically, to go -- to  
3 continue to maintain the pumping system, to do  
4 whatever mechanical work was necessary and,  
5 basically, to let us know when they were  
6 completed with their testing to show that,  
7 in fact, the groundwater has been corrected and  
8 treated to the standard. And we would,  
9 obviously, as a state agency, monitor that  
10 progress. But the release of liability comes  
11 when they install the wells and turn on the  
12 switch -- not at the end of the process when  
13 they meet the standard.

14 MR. REIMER: Oh, that's a very  
15 productive way to go. I compliment you.

16 MS. PERRI: Thank you.

17 MS. CHAMBERLAIN: A real concrete  
18 example of that is: Recently, we were up in  
19 Westchester, Pennsylvania -- and you might have  
20 heard about that for environmental justice  
21 reasons -- and I was very pleased to say that  
22 under our program, we celebrated the fact that  
23 the community was interested in having a  
24 several-acre park in a particular location and  
25 a responsible party dedicated \$2.3 million to

1       remediate the site -- and instead of holding  
2       onto it as the property owner or selling it in  
3       order to make some profit in the marketplace,  
4       they turned it over to the community for a  
5       park -- \$2.3 million invested. They're to be  
6       complimented.

7               MR. SNYDER: And within that same  
8       community, which is a borough -- very  
9       small -- and there were two other cleanups  
10      done at the same time, so -- as Denise referred  
11      to it, we had a triple play. Two were business  
12      entities for job production and -- and one was  
13      a park.

14             MS. PERRI: Okay. Thank you.  
15             General?

16             GEN. HUNTER: Denise and Jim, I can  
17      only echo the comments you've heard from some  
18      of the earlier members in terms of an excellent  
19      presentation.

20             The two questions I have for you -- one  
21      was: Have you shared this environmental  
22      business plan concept with some of the other  
23      states?

24             MS. CHAMBERLAIN: Yes.

25             GEN. HUNTER: This is the first time

1 I've heard about it and I think some of the  
2 others --

3 MS. CHAMBERLAIN: Yes. We've been  
4 sharing this information to a number of our  
5 states and we do it through a variety of  
6 sources. We have made some joint  
7 presentations, the military as well as  
8 Pennsylvania, with ECOS -- and we have been  
9 talking to states on an individual basis.

10 One of the things that we were very  
11 pleased about when we signed our multi-site  
12 agreement was we had the State of New Jersey  
13 express a great deal of interest in this and  
14 they, basically, said -- you know, "We want  
15 one, too." So, when we celebrated the signing  
16 of our multi-site agreement, Commissioner Shin  
17 (phonetic) from New Jersey participated and  
18 they are in the midst of an agreement in  
19 principle and they're looking towards executing  
20 a multi-site agreement -- and there have been  
21 other states -- Alaska has expressed an  
22 interest and there has been several others that  
23 are taking a close look at the multi-site  
24 agreement.

25 MR. PERRI: And, General, just to

1 interject, the National Defense Industry  
2 Association conference this year is taking  
3 place in March in Denver -- March 29th through  
4 April 1st -- and the cleanup office is going to  
5 have a separate off-line session -- and part of  
6 that is to run a workshop for people and what a  
7 voluntary agreement might mean, what the  
8 components might be and how we can make it more  
9 successful and expand it.

10 GEN. HUNTER: Good. The last one:  
11 You heard a lot of discussion about  
12 standards -- and I'm always intrigued when you  
13 say that we've developed three levels of  
14 standards for how clean is clean. Because  
15 that's been the controversy around cleanup of a  
16 number of sites around the country as far as my  
17 experience goes. How did you bridge that gap  
18 to get the federal and state agencies together  
19 and come up with a finite set of standards that  
20 people signed up to and adhere to?

21 MR. SNYDER: Well, all we did,  
22 essentially, is we -- we -- we took a process  
23 that people recognized as being scientifically  
24 sound. We used many of the federal processes.  
25 We accepted the federal cleanup levels for

1 MCLs. We, also, then, follow up -- if there's  
2 no drinking water standard -- to a health  
3 advisory level standard -- and if there's  
4 health advisory level standard, then we,  
5 basically, created a media-specific standard --  
6 either soil or groundwater -- or a soil  
7 standard based on a set of risk assumptions --  
8 and those, as I said earlier, were one times  
9 ten to the minus fifth for the statewide health  
10 standards.

11 The background standard, essentially, is  
12 that you clean up to what the  
13 naturally-occurring conditions are at your  
14 site. Many areas of the Commonwealth,  
15 unlike -- or probably -- I should say like  
16 other areas in the -- in the country -- have  
17 pervasive contamination -- TCE, for an example,  
18 or perchloroethylene -- and in some -- some  
19 cases the property owner may have not had  
20 anything to do with it, but their  
21 groundwater -- because it flows underneath  
22 their site -- is contaminated. Well, we  
23 don't -- we don't require that property  
24 owner -- even though he or she is sitting over  
25 top of that aquifer -- to, basically, clean up

1 something they didn't create. So, we design a  
2 background process so that they can -- they  
3 identify what background is on and off property  
4 and clean up to that standard. So, they  
5 literally establish their own for that  
6 particular site based on a risk assessment.

7 MS. CHAMBERLAIN: And that's similar  
8 to the EPA's aquifer policy.

9 GEN. HUNTER: Okay. Thank you.

10 MS. PERRI: Thank you.

11 Thomas?

12 MR. EDWARDS: Thank you. I wanted to  
13 follow up on a question that Stan had for you.  
14 I heard you say that you use risk assessment  
15 for your site-specific standards and I believe  
16 I also heard you say that exposure levels for  
17 those standards are based on assumptions about  
18 future land use. Is that -- Is that right?

19 MR. SNYDER: Current and future.

20 MS. CHAMBERLAIN: Yes.

21 MR. EDWARDS: Current and future?

22 MR. SNYDER: Uh-huh.

23 MR. EDWARDS: Well, in Texas, we have  
24 had -- we're trying to do the same thing -- and  
25 the Texas Risk Reduction Rules sound very

1 similar to what you're doing here. But,  
2 frankly, I have had concerns about this  
3 particular use because you're really making two  
4 assumptions there. One is that you know enough  
5 about the dose response curves or the lifetime  
6 cancer risk. You understand those statistics  
7 well enough to know that you really have a  
8 one-times-ten-to-the-minus-fifth risk and not,  
9 say, minus third or minus second and the second  
10 assumption is that you know what the future  
11 land use is going to be and it's safe enough to  
12 plug that into the exposure calculations. I'm  
13 wondering, have you had any experience with  
14 that? Do you have concerns about using it in  
15 that way?

16 MR. SNYDER: No.

17 MR. EDWARDS: What are your feelings  
18 about that?

19 MR. SNYDER: I don't have -- I don't  
20 lose one wink of sleep about it. We don't. I  
21 can't get into a dissertation about -- about  
22 curves and so forth at the current moment, but  
23 we've had -- we probably had 75 scientists from  
24 our state as well as internationally take a  
25 look at our process to take a look at the

1       assumptions that were used and we all feel  
2       comfortable that the risk assessment process  
3       and the modeling that was done to create the  
4       standards is safe, sound and accurate, number  
5       one. Number two is that using current and  
6       future land use assumptions is important  
7       basically because -- you know, if you're going  
8       to construct an industrial establishment with  
9       slab construction, you don't need to worry  
10      about a direct contact threat. But it is  
11      important to ensure that the standard meets the  
12      use -- and in our statute, we have re-openers.  
13      So, if you -- if you change the use of property  
14      from -- let's say industrial to residential,  
15      then you automatically trigger the re-opener  
16      and you automatically have to go in and do  
17      further cleanup.

18               MR. EDWARDS: Okay. That brings me  
19      to my question. When you were talking to -- in  
20      response to Paul's question -- about the  
21      statutory release and a release from liability,  
22      is there a re-opener in that release? In other  
23      words, what if the remedy fails? What if the  
24      land use changes contrary to the  
25      expectations -- or contrary to the promise that



1           they have made?

2                   MS. CHAMBERLAIN:  You just listed two  
3           of our re-openers.

4                   MR. EDWARDS:  Okay.

5                   MS. CHAMBERLAIN:  We probably have  
6           five or six re-openers -- and, yes -- and,  
7           then, the other thing that we say, basically,  
8           is your release of liability is only as good as  
9           your cleanup.  So -- you know, it all depends  
10          upon what you have identified.  So, if there --  
11          in the off chance there's not been a thorough  
12          job done, it's only as good as the job that you  
13          have done -- and, frankly, people do make that  
14          their release of liability is quite strong --  
15          and we find it's fairly strong when you're  
16          looking at property transfer.  There's a high  
17          level of interest with the purchaser of the  
18          property to make sure a good cleanup has  
19          occurred.

20                   MR. EDWARDS:  Okay.  One final  
21          question, if I may:  One of the things I'm  
22          hearing from other states is concern about  
23          funding for long-term monitoring.  If you're  
24          looking at remedies that need to stay in place  
25          for a long, long time -- like -- say heavy

1       metals contamination -- do you have a program  
2       in place? Do you have funding? How do you  
3       handle long-term monitoring?

4               MS. CHAMBERLAIN: What we take a look  
5       at when you do file the final report and if it  
6       does involve long-term monitor -- we are  
7       interested in financial assurances. So, we are  
8       looking at the length of the monitoring that's  
9       going to be required and we do look for some  
10      financial assurances. Within the Commonwealth,  
11      we've taken a look at a variety of insurance  
12      products as we've been putting these  
13      transactions together. It's possible that  
14      those might be used as a mechanism. But most  
15      of the time, we really are looking for  
16      financial assurances.

17             MR. EDWARDS: Thank you.

18             MS. PERRI: Okay. Thank you. Jim  
19      and, then, Don -- and after that, we'll take a  
20      break and, then, move to the next two panels.

21             MR. WOOLFORD: Okay. Thank you.

22             In your dispute resolution process, who  
23      has the final say-so?

24             MS. CHAMBERLAIN: I think that the  
25      way we work it up through the structure -- I

1 believe the secretary of our department is  
2 going to be having a conversation with  
3 Ms. Goodman.

4 MR. WOOLFORD: And -- but if there's  
5 no agreement there, who makes the final call?

6 MS. CHAMBERLAIN: Well, frankly, I'd  
7 like to think that as it works up its number of  
8 layers that we're going to be able to make a  
9 resolution prior to that. But we, basically,  
10 have decided that between the two of them, they  
11 should be able to settle any type of dispute.  
12 If not, as Jim mentioned, it gets parked off to  
13 the side -- and if we do have to come up with  
14 other types of mechanisms to address it, we  
15 will. We'll take a look at that.

16 MR. WOOLFORD: Okay. In terms of --  
17 you talked -- or Jim talked about the --  
18 you've deferred, like, 354 various types of  
19 sites. Does that mean you're no longer going  
20 through the RCRA permitting process at all with  
21 this approach you're doing?

22 MS. CHAMBERLAIN: What we're saying  
23 is those sites include the RCRA corrective  
24 action. So, that is something distinctly  
25 different. Frankly, we really would like to

1       have the opportunity to have all of those  
2       deferred sites in our particular program, but,  
3       of course, we are looking at existing  
4       mechanisms and we're also looking at another  
5       agency -- the EPA -- giving their agreement to  
6       allow all the deferred sites to come into our  
7       program. We're hopeful that the EPA will be  
8       interested in allowing those sites to go  
9       through.

10               MR. SNYDER: One of the things that  
11       we are doing off-line from this process is we  
12       have discussed our interests with Tim Fields,  
13       your boss, and Elizabeth Coxworth and some of  
14       the other folks at the agency about developing  
15       a model MOU agreement that addresses RCRA  
16       corrective action, NPL sites and state  
17       Brownfields programs to reflect the fact that  
18       obviously as -- as stated public policy  
19       position, the agency, EPA, believes that there  
20       needs to be further streamlining done,  
21       particularly in the RCRA corrective action  
22       process, we are offering a draft MOU process  
23       that we are currently working on to resolve  
24       that conflict between RCRA corrective action,  
25       Brownfield programs and NPL. So, we are

WORKING DRAFT

1       working with John Armstead from EPA Region 3,  
2       who has the lead, and -- so we're hoping that  
3       that MOU process will further bridge the gap  
4       between Brownfields applications as well as EPA  
5       responsibilities.

6               MS. CHAMBERLAIN:  So, we hope you  
7       will be working with us on these as well.

8               MR. SNYDER:  Yeah.  We invite you to  
9       join us.

10              MR. WOOLFORD:  Thank you.

11              Staffing levels for your office:  Some  
12       states set a limit on the staffing ceilings.  
13       Do you guys have a limit on your staffing  
14       ceilings -- or -- or what?

15              MR. SNYDER:  We have -- Yes, we do.

16              MS. PERRI:  Okay.  All right.  
17       Let's move on to Don.

18              MR. WOOLFORD:  I had some more  
19       questions.

20              MS. PERRI:  Jim, you know what --  
21       we -- can we come back to you?  Let's give Don  
22       a chance.  We've got -- We're about 40 minutes  
23       behind.

24              MR. WOOLFORD:  Okay.

25              MR. GRAY:  I will defer to Jim.

1 MS. PERRI: Okay.

2 MR. WOOLFORD: I just -- one final  
3 question: Your Act 2 standards, how would you  
4 say they generally -- I just want to clarify  
5 how they compare to the federal standards,  
6 especially because -- you said you picked a ten  
7 to the minus five level -- and -- and some of  
8 our cleanup ranges are in ten to the minus four  
9 or ten to the minus six? If you could just  
10 comment on that -- that was it.

11 MR. SNYDER: Well, they comport with  
12 the federal requirements in that we have  
13 accepted the MCLs that EPA basically advances.  
14 We have utilized health advisory levels with --  
15 which your agency also uses -- and what we --  
16 what we did was -- however, where there are no  
17 health advisory levels or MCLs, we have created  
18 a standard using a risk assessment process and  
19 the standard that we selected was one times ten  
20 to the minus fifth. So, as you know, in the  
21 federal Superfund program -- you do have that  
22 risk range, but you guys start at six and work  
23 backwards. We, essentially, chose the middle  
24 of the road as an acceptable standard -- and  
25 that seems to work pretty well. Our lead

1 standard, for an example, is 500 residential  
2 and 1,000 industrial and I guess California is,  
3 like, 375 or something like that. But -- But  
4 for the most part, if you look at the  
5 standards, you will see a lot of synonymity  
6 between those and the federal requirements.

7 MR. WOOLFORD: Okay. Thank you.

8 MR. GRAY: Can I just make one or two  
9 comments?

10 MS. PERRI: Yeah.

11 MR. GRAY: I'd just like to say in my  
12 other life, I am very much interested in the  
13 area of Brownfields reclamation and preventing  
14 sprawl and preserving green spaces and so on.

15 MR. SNYDER: Oh, great.

16 MR. GRAY: But I do find that I have  
17 to, sort of, constantly be on guard that my  
18 enthusiasm for those things doesn't cloud my  
19 judgment with respect to protecting the  
20 environment and human health -- and I was a  
21 little bit concerned with your statement  
22 that -- and we were talking about public  
23 participation -- that you were, sort of,  
24 old-fashioned and believed in relying on  
25 elected local officials and -- and those

1 gentlemen sometimes get elected because of  
2 bringing jobs into a community and economic  
3 development and so on, sometimes at the expense  
4 of protecting the environment and human  
5 health. I think I heard you say later on that  
6 you do have a process beyond that for  
7 soliciting views from the broader community.  
8 Did I hear correctly?

9 MS. CHAMBERLAIN: What I was  
10 referring to is -- I think that the land use  
11 issues should stay at the local level and I  
12 think the state agency has the main  
13 responsibility for making sure that cleanups  
14 are done appropriately.

15 MR. GRAY: So, you were only talking  
16 about state versus local?

17 MS. CHAMBERLAIN: Yes.

18 MR. SNYDER: Yeah. And there are --  
19 and -- and for each -- each individual site  
20 that goes through our process, there are -- as  
21 we said, there's newspaper notice, public  
22 register notice, copies of information that go  
23 to the community -- and, then, if the community  
24 decides that they want to get involved and they  
25 make that affirmative choice, then there are



1 mechanisms for a -- I'll call it a public  
2 participation plan to be developed, which  
3 includes repositories and all of the other  
4 attributes to that that you would -- you could  
5 imagine.

6 MR. GRAY: Thank you. I'm glad you  
7 clarified it.

8 Just one final brief question. There was  
9 some previous discussion about remedies that  
10 require long-term monitoring and either  
11 physical or institutional controls. Who is  
12 going to be responsible for seeing that those  
13 physical and institutional controls are  
14 complied with? And I'm talking about things  
15 like -- where somebody -- the new owner's  
16 facility -- goes out and starts digging in a  
17 no-dig area or the use changes by -- say, it's  
18 industrial, but they suddenly decide they're  
19 going to put a child care center on site -- who  
20 is going to be responsible for seeing that  
21 those kinds of things don't happen?

22 MS. CHAMBERLAIN: Well, as we  
23 mentioned, those are statutory re-openers under  
24 our program. So, that is something that  
25 everyone is going to care about. Most of the

1       time, when the property is conveyed to another  
2       party -- an agreement is done between the  
3       seller and the purchaser -- the seller has a  
4       continued heightened interest in making sure  
5       that the institutional controls stay in place.  
6       They are interested in enforcing those  
7       institutional controls. And, likewise, the  
8       state is interested in enforcing those  
9       institutional controls and we have mechanisms  
10      on a contractual basis, on a statutory basis  
11      and under our real property common law basis to  
12      enforce those statutory controls.

13               MR. GRAY: I'm not questioning your  
14      legal authority to do it. I'm saying who's  
15      going to do it? I mean, who's going to go out  
16      there and see that nobody is digging in a  
17      non-dig area? Who's going to go out there and  
18      see that they haven't opened a child care  
19      facility in an industrial setting? Somebody  
20      has got to know about it first before you can  
21      employ your legal remedies.

22               MR. SNYDER: And there are -- there  
23      are several groups of individuals that would be  
24      involved. Number one, the Commonwealth would  
25      be continued -- involved. We, basically, do

1 keep record of every one of those and there is  
2 a mechanism where we will be circling back and  
3 checking on those over time, number one. And  
4 number two is that unless there is a problem  
5 within the local government entity where,  
6 in fact, the deed has been restricted, someone  
7 is going to pick that up when the title  
8 transfers. But the community, also, is  
9 involved. The property -- The seller is also  
10 involved, but I guess -- the buck stops here.  
11 So, it would be the Commonwealth and the -- and  
12 the regulatory agency.

13 MR. GRAY: And do you have a plan to  
14 do regular inspections of those facilities?

15 MR. SNYDER: Yes.

16 MR. GRAY: And the resources to do  
17 it?

18 MS. CHAMBERLAIN: Yes.

19 MR. SNYDER: Yes.

20 MS. PERRI: Okay. Thank you very  
21 much for a wonderful presentation.

22 Let's take a ten-minute break and, then,  
23 we'll come back and hear our next two panels.  
24 Thank you.

25 (Short break taken.)

1                   MR. CHOUDHURY: If we could take our  
2                   seats, we can resume the meeting.

3                   A few administrative remarks: The annual  
4                   report that Ms. Chamberlain referred to was  
5                   handed out to the DERTF members. Additional  
6                   copies were placed on the handout table. The  
7                   DERTF members also received two handouts  
8                   regarding the panel that's coming up.  
9                   Additional copies were placed on the handout  
10                  table -- and, again, if I can ask people to sit  
11                  down. If you're engaged in conversation, if  
12                  you could take that outside the meeting room,  
13                  we can get started.

14                  Again, as a reminder, this is a meeting of  
15                  the Defense Environmental Restoration  
16                  Task Force. The meeting is -- the conduct of  
17                  the meeting is compliance with the Federal  
18                  Advisory Committee Act -- and at this time --  
19                  the next item on our agenda is a panel on  
20                  Native American issues and BRAC Environmental  
21                  Cleanup. We are starting a little behind the  
22                  scheduled time. We still plan on providing an  
23                  hour for the presentation and any necessary  
24                  time for question and answers as determined by  
25                  the Chair. This panel was coordinated by the

1 Environmental Protection Agency. And, so, I  
2 invite Mr. Jim Woolford to make any remarks at  
3 this time.

4 MR. WOOLFORD: Thank you, Shah.  
5 First of all, I would like to acknowledge and  
6 welcome Mr. Victor Preston, who is the tribal  
7 chairman here from the -- with the Susanville  
8 Indian Rancheria from Susanville, California --  
9 and I am told we may be joined by Ms. Lorretta  
10 Avent, who is the former Deputy Assistant for  
11 Intergovernmental Affairs. She also served as  
12 a White House liaison to Indian country and as  
13 a special liaison to the First Lady's office.  
14 I'm told she was planning on being here and she  
15 just has not arrived yet.

16 As most members of the DERTF will recall,  
17 EPA has been seeking to have a panel on  
18 Native American and BRAC issues for some time  
19 because of the many unique situations involving  
20 Native Americans and the BRAC cleanup program.  
21 Among the challenges that it's faced is that as  
22 part of the federal government's trust  
23 responsibility with federally-recognized  
24 tribes, we must work with the tribe on a  
25 government-to-government basis and we must also

1       ensure that our actions are consistent the  
2       protection of tribal rights.

3               I would like to extend EPA's appreciation  
4       to Don Gray and Brian Polly and others for  
5       their suggestions for the panel and I'd also  
6       like to offer recognition to Marcia Minter,  
7       who's on my staff, who heads up our Community  
8       Involvement and Tribal Efforts for her efforts  
9       in bringing together this panel.

10              And, finally, I'd like to offer a special  
11      thanks to the panelists who have spent  
12      considerable time and effort and energy and  
13      shown great dedication, who persevered through  
14      several conference calls that I've heard in  
15      preparing for this presentation. I think it's  
16      going to be very, very informative to the DERTF  
17      members. And with that, Don, I'd like to turn  
18      it over to you and, then, we will turn it over  
19      to Mr. Jimmy Spain who is going to be  
20      moderating this panel.

21              MR. GRAY: I don't want to prolong  
22      it. I'd just like to say I'm very happy that  
23      we have decided to have this panel. I think  
24      it's a subject that is long overdue being  
25      addressed properly and I hope that -- that

1       having the panel will move us in that  
2       direction.

3               MS. PERRI:   Okay.   Thank you.   You  
4       may begin.

5               MR. WOOLFORD:   Mr. Spain?

6               MR. SPAIN:   Thank you very much.   I'm  
7       very excited about this opportunity to come and  
8       address the DERTF about the Native Americans  
9       and the issues that are ongoing with BRAC  
10      acquisition of property.   Marcia asked me to  
11      speak quickly because we are running a little  
12      bit behind time, but being -- growing up in  
13      Tennessee and now living in Alabama, that's  
14      totally out of character and I'm not sure that  
15      I'm going to be able to speak as quickly or as  
16      fast as Marcia would like for me to.

17              But I -- just a little bit -- very  
18      little bit about me:   I'm a retired Army  
19      officer.   My last assignment was in BRYCO  
20      office in D.A.   I worked with Rick Newsome and  
21      Phyllis Breland.   Now, earlier, they were --  
22      Well, Phyllis is here -- or -- or behind  
23      me -- and I'm not sure I like them standing  
24      behind me, but -- but they -- they are -- they  
25      are very good people and -- and very efficient

1       in what they do.

2               Most notably, I was the program manager  
3       for Sacramento Army Depot Closure and Disposal,  
4       and later served as the BTC at Sierra Army  
5       Depot -- and that is where I got involved with  
6       the Susanville Indian Rancheria and very  
7       quickly learned that the Native Americans, for  
8       the most part, are being left out of the  
9       process from an understanding or being told  
10      what the process is. As a BTC, responsibility  
11      is to go out to all parts of the community  
12      and -- and -- and I did that -- and -- and  
13      but I'm sorry to say that it doesn't appear  
14      that that's happening across the board in other  
15      parts of the country.

16             The Susanville Indian Rancheria requested  
17      property at Sierra Army Depot and in less than  
18      16 months from the time of notice of  
19      availability to the time of transfer -- which  
20      is very quick -- and Bob is going to -- a  
21      little bit later in his presentation -- he's  
22      going to give you some explanation as to why it  
23      went so fast and why that also could work in  
24      other areas.

25             In July of '97, I resigned my position as



1       BTC because I felt that I could do more working  
2       with the Native Americans outside the --  
3       outside instead of being an outsider and, so, I  
4       went to work for the SIR as a consultant at  
5       that time. That's when I met Lorretta Avent.  
6       She came to the transfer ceremony and we got  
7       together and decided to form Avent, Spain & --  
8       L.L.C. -- to help the Native Americans and  
9       guide them through the process.

10           One other thing about Lorretta -- and  
11       she's -- she is most excited about her job as a  
12       liaison to the First Lady -- she had three or  
13       four hats that she wore at the time, but she is  
14       still an informal liaison with the First Lady  
15       and they speak often -- and the White House is  
16       very concerned that the Native Americans get  
17       their fair shot through this process in getting  
18       properties.

19           I had a lot more to say, but we don't have  
20       time. So, I'm going to go on to introducing  
21       the panel and let the Native Americans speak  
22       for themselves, because they can best do that.  
23       Tribal -- First of all -- and this is not in  
24       the order of how they're seated, but we have  
25       Tribal Chairman Victor Preston, who's chairman

1 of the Susanville Indian Rancheria. They  
 2 received 120 housing units and an  
 3 administrative building of 17,000 square feet  
 4 in the first transfer. They're, now, going to  
 5 get, hopefully, this month or early next month  
 6 three additional barracks, which would house  
 7 96 soldiers, and they're going to renovate it  
 8 to where it will house a youth regional  
 9 treatment facility for 12- to 18-year-old  
 10 youths with -- with addiction problems. The --  
 11 and they're also going to receive a dining  
 12 facility and about 69 additional acres. Victor  
 13 is an interesting person because he -- he is a  
 14 son of the Susanville Indian Rancheria. He  
 15 grew up there, but then he left and has worked  
 16 literally from coast to coast. But he -- he  
 17 went back to Susanville -- what -- about two  
 18 years ago -- ran for office, was elected as the  
 19 chairman and has a quite extensive agenda for  
 20 what he would like the Susanville Indian  
 21 Rancheria to do. One of them is to be a leader  
 22 and be in the forefront of acquiring property  
 23 through the BRAC process.

24 We also have Roseria Duwyenie --

25 MS. DUWYENIE: "Roseria Duwyenie."

1                   MR. SPAIN:  "Roseria Duwyenie."  Rose  
2                   is much simpler, but -- she is an environmental  
3                   protection specialist or DOI, Bureau of Indian  
4                   Affairs, Navajo Area Office in Gallup,  
5                   New Mexico.  She is responsible for actions at  
6                   Fort Wingate and serves as a RAB co-chair  
7                   person.  She is -- She is an enrolled member of  
8                   the San Carlos Apache of Arizona.  She attended  
9                   North Arizona University and has 28 years of  
10                  service with the BIA -- and 20 of those years  
11                  have been in environmental service of NEPA  
12                  compliance.  She is environmental point of  
13                  contact for the Navajo area office.

14                 Next, we have Sharlene Begay-Platero.

15                         MS. BEGAY-PLATERO:  "Platero."

16                   MR. SPAIN:  "Platero" -- member of  
17                   the Navajo Nation.  She is a staff of the  
18                   Navajo Nations Division of Economic Development  
19                   and a team leader of the Fort Wingate Land  
20                   Transfer Project.  She has served in this  
21                   position for eight years and is also a member  
22                   of the Fort Wingate RAB.

23                   Next, we have Bob Weis.  Bob is a chairman  
24                   of the Restoration Advisory Board at Sierra  
25                   Army Depot.  He began his restoration program

1 prior to the Depot being BRAC'd in 1995 -- and  
 2 that is really a key to installations  
 3 transferring property quickly -- and he will  
 4 get into that through his presentation. Bob  
 5 was made the BEC in 1995 and is the only member  
 6 still with Sierra -- meaning that the BTC has  
 7 changed twice, the BRAC office has completely  
 8 changed over twice and I have a feeling that  
 9 Bob is -- probably has his eyes set on taking  
 10 over the BRAC office, as well -- and that is  
 11 another major problem with installations -- and  
 12 that's keeping the BTC, keeping the BRAC  
 13 office, keeping the BEC intact. They change  
 14 quickly and, therefore, you lose consistency.  
 15 Bob is now the BTC and the -- and as I said,  
 16 the BEC.

17 And last -- and certainly not least -- we  
 18 have Louie Guassac -- "Guassac." He's a member  
 19 of the Mesa Grande Band of Mission Indians and  
 20 is Vice Chairman of the Kumeyaay Cultural  
 21 Repatriation Committee. For the past five  
 22 years, he's been serving as a tribal  
 23 coordinator for a consortium of tribe. They're  
 24 pursuing a BRAC closure property at the Naval  
 25 Training Center in San Diego. The base is

1 located on known aboriginal territory of the  
2 Kumeyaay Nation. He's instrumental in  
3 obtaining tribal resolutions of support for  
4 member tribes in San Diego County that comprise  
5 the Kumeyaay Nation. He's also served on a  
6 joint NCAI national task force for tribal  
7 governments in '94 and '95 and involved in base  
8 closure -- and I'm also a former RAB member of  
9 the NTC. To date, they are still pursuing  
10 properties at the NTC.

11 So -- not to take up any more of their  
12 time, I will now turn it over to Rose from  
13 Fort Wingate -- Oh, is Sharlene going first?

14 MS. BEGAY-PLATERO: Thanks, Jimmy.  
15 "Yah-ta-hez." That means "hello" or  
16 "greetings" in Navajo -- and I come from an  
17 Indian nation that's the largest land base in  
18 the United States -- 17 million acres we have  
19 and that's the size of the State of  
20 West Virginia in the Four Corners of the  
21 United States. I'm the team leader appointed  
22 by the Navajo Nation Council, which is an  
23 88-member council of the Navajo Nation and I'm  
24 the team leader for the Fort Wingate Project.  
25 Rose and I are colleagues on this project and

1       we're the staff members who are the movers and  
2       shakers, if you will, of this project. I'm  
3       going to speak first about the installation and  
4       Rose is going to talk about the environmental  
5       issues -- and I've done an outline on my  
6       presentation with maps, as well.

7               Fort Wingate was closed in 1991 -- and how  
8       we are approaching this closure is that -- this  
9       is a federal-to-federal transfer from the  
10      Department of Defense to the Department of  
11      Interior. Within the Department of Interior,  
12      the Bureau of Affairs, Navajo Area Office, as  
13      well as the Albuquerque office -- because this  
14      is a project with the Navajo Nation and the  
15      Pueblo Zuni -- together, we'll hold the  
16      property in trust for the benefit of the Navajo  
17      people and the Pueblo Zuni people.

18             Both tribal councils of Navajo and the  
19      Pueblo of Zuni endorsed and entered into a  
20      joint working -- to work jointly with the --  
21      with a memorandum of understanding to transfer  
22      the property for the benefit of our tribal  
23      members.

24             If you could show the overhead showing  
25      where the property is at? Fort Wingate is in

1       McKinley County in the State of New Mexico,  
2       eight miles east of the City of Gallup; and the  
3       Cibola National Forest is to the south; and to  
4       the east of the depot is Navajo trust land  
5       borders at Fort Wingate, as well as to the  
6       north and the west.

7             The original Fort Wingate dates back to  
8       the 1850s located east of the present depot.  
9       The present facility was constructed in 1941 --  
10      and you can see the Zuni Reservation is at the  
11      southern end of that map -- that's why it's  
12      important to them, as well. Current land  
13      status is federal and Fort Wingate is  
14      administered by the Tooele Army Depot in  
15      Tooele, Utah.

16            On the size -- if you could show the  
17      master plan slide -- the size of the  
18      installation is 21,812 acres. About 800 acres  
19      is administration, 8,100 acres or igloos  
20      (phonetic) is ammunition storage -- and there's  
21      a buffer zone of about -- over 5,600 acres.  
22      The demolition area is 1,100 acres and the  
23      southern portion -- the green area there --  
24      is the woodlands or forest area.

25            The Department of Defense is going to

1        retain 13,600 acres by BMDO -- and this map  
2        shows the master plan, but if you look at the  
3        bigger map that's in front of the panel -- the  
4        blue areas is what BMDO is keeping -- or the  
5        Department of Defense is keeping for their  
6        missile test launchings to White Sands,  
7        New Mexico, which is about 300 miles south from  
8        Fort Wingate. The 1,300 acres on the map in  
9        front of you is -- the yellow and the hot pink  
10       area is what the Department of Defense will  
11       retain, because it's heavily contaminated. So,  
12       what's left is 7,200 acres for tribal use,  
13       which is not much from 22 -- almost 22,000  
14       acres that we believe we should have.

15                There are over 20 miles of railroad  
16       tracks, 70 miles of paved roads, 80 miles of  
17       gravel roads on the installation. If you could  
18       go back to the outline on the second page, the  
19       history -- Navajo people -- this land is their  
20       aboriginal area and Navajos have created, if  
21       you will, their boundaries by the four sacred  
22       mountains that they live on. One to the west,  
23       one to the east, one to the north and one to  
24       the south. Within these boundaries there are  
25       many sacred areas that are preserved and



1       protected. We as Navajos have been very  
2       mobile, using large areas of land for hunting,  
3       farming and plant gathering. During the  
4       Spanish period -- when the Spaniards  
5       arrived -- they brought the acquisition of the  
6       horse, which increased our mobility. During  
7       this time -- this is where Navajos began  
8       raising sheep, which are famously known for,  
9       thus, increasing the land for grazing areas.

10           After the release of the Navajos -- when  
11       we were imprisoned by the United States at  
12       Bosque-Redondo -- many people settled in the  
13       area of Fort Wingate, which is in Navajo called  
14       Sushpeto (phonetic), which means  
15       Bear Springs -- or the Fort Wingate area. The  
16       1868 treaty with the United States created the  
17       reservation, which was then three and a half  
18       million acres, and, now, we have over  
19       17 million. But Navajos use lands beyond the  
20       boundaries created by the United States  
21       government. Our society is matriarchal where  
22       children belong to or born to the clan of their  
23       mother and born for their father's clan.

24           During World War II, Navajos living on the  
25       present area of Fort Wingate were forced to

1       remove and leave their homes -- just in an  
2       instant, if you will. They were told to  
3       leave. They left their homes. They left their  
4       corrals -- their sheep corrals and were told,  
5       "You" -- "We need this land." The sacred  
6       places that are at Fort Wingate are -- most of  
7       them are Anasazi Ruins, which we considered  
8       very sacred. Because in our ceremonies that we  
9       have, we have shrines for the holy people --  
10      and one of those areas is the Anasazi Ruins --  
11      and that's significant for us.

12             I'm not an expert on the Zuni people, so I  
13      just gave a little bit of information about the  
14      Zunis. Their intermittent use for the area is  
15      religious and planting, gathering and hunting.  
16      Fort Wingate is considered an area where they  
17      did a lot of trading, a lot of trails, a lot of  
18      mineral gathering and plant gathering. They  
19      have sacred areas, too, which -- they do have  
20      some shrines at Fort Wingate and -- as well as  
21      trails and lakes and ruins -- and they  
22      historically traded with the Navajos and the  
23      Spanish.

24             Okay. We're on No. 3. Department of  
25      War: The first name for it is Fort Wingate.

1       In the 1950s, it was Fort Fauntleroy and it was  
2       a strategic location for the Army during the  
3       Navajo wars and it served as a supply military  
4       point for Fort Defiance, which was on Navajo --  
5       and other forts in the New West. It was also a  
6       protection fort for travelers going to the New  
7       West of California for the local -- and to  
8       protect them from the local Indians.

9             In 1861, it was -- the name was changed to  
10       Fort Lyons and it remained inactive. In 1868,  
11       after the Navajos returned from their  
12       imprisonment at Bosque-Redondo, the fort was  
13       reactivated to attempt to control the Navajos  
14       upon returning to their reservation -- and, in  
15       the 1880s, it served as a peacemaker function.  
16       That was under the Department of War.

17            Now, the Department of Army:  
18       Fort Wingate, in a sense, began in 1918, where  
19       it served as a storage facility -- repacking  
20       explosives, et cetera. In the '30s, it carried  
21       about 23,000 tons of explosives -- and in the  
22       '40s, they made explosives ready to use and --  
23       one of the first shipments to Britain and  
24       France in the beginning of World War II. Of  
25       course, at the end of World War II, not needing

1       the explosives brought a halt to the usage at  
2       Fort Wingate. 1988, BRAC came in and the  
3       closing of Fort Wingate in '91.

4             Can you show the cultural resources map?  
5       There are over 800 cultural resources sites  
6       that were identified in a resource inventory by  
7       the Army Corps of Engineers at Fort Wingate.  
8       It's the one with all the little spots on it.  
9       As you can see, there's a lot of relation to  
10      the people in the area. When this survey was  
11      conducted, there was a memorandum of agreement  
12      between the Army, Department of Interior, the  
13      Advisory Council of Historic Preservation, the  
14      New Mexico Preservation Office, the Navajo  
15      Nation and the Pueblo Zuni in conducting  
16      surveys. With Navajo, they worked with people  
17      who as children were removed when they were  
18      little -- they are still alive -- and they  
19      pointed out where they lived. So, they were  
20      the true ancestors of the area, if you will.

21            As you can see by all those -- the  
22      inventory there, there's a rich cultural  
23      heritage that we -- both nations have there --  
24      and Rose is going to talk about the  
25      environmental issues.

1                   MS. DUWYENIE: Not to be outdone by  
2                   the Navajos, "How-ateah," that's Apache for,  
3                   "How are you," or "Hello."

4                   I am San Carlos Apache. I'm an enrolled  
5                   member, but I am married to a Navajo and have  
6                   one daughter who's half Navajo. So, I do have  
7                   cultural ties to the Navajo tribe. I work with  
8                   the Bureau of Indian Affairs. I have been  
9                   there since 1970. I started out in adult  
10                  education and -- teaching pre-school and  
11                  progressed up to environmental services.

12                  The BIA is an organization under the  
13                  Department of Interior. Under this structure,  
14                  the BIA has worked with the Bureau of Land  
15                  Management in the transfer of the properties.  
16                  In addition, BIA has two offices which are  
17                  charged with this acquisition. One is the  
18                  Navajo Area Office and the Navajo Area Office  
19                  has the distinct responsibility of dealing with  
20                  one nation of Indians, which is the Navajo  
21                  tribe. The Albuquerque Area Office has  
22                  multiple tribe, one of which is the Zuni  
23                  tribe. So, as a result, we have a co-chair  
24                  responsibility for administration of this  
25                  land.

1           As far as the issue on Fort Wingate  
2           activity, we -- this question comes up  
3           frequently among Native American meetings in --  
4           in how the BIA was successful at Navajo in  
5           acquiring this property on behalf of both  
6           tribe. The BIA is at Navajo -- and, again, I  
7           can't speak for the other areas, because I've  
8           never worked for any of them and I'm not  
9           sure -- each one is just a little bit  
10          different, just like within the military.  
11          You're all a little different in your own way  
12          even though you work for the same group.

13          We determined that the Fort Wingate  
14          activity lands were not Defense-owned lands,  
15          like in most BRAC situations where the Army  
16          closes a base and sells the property to outside  
17          interests or transfers it to them. In this  
18          case, it was public domain lands under a use  
19          agreement with BLM, which were determined to be  
20          aboriginal lands for both the Navajo Nation and  
21          the Zuni tribe. As a result of this, the BIA  
22          requested that the lands be transferred to BIA  
23          for the beneficial use of the Navajo Nation and  
24          Zuni tribe.

25          Next slide. This is a very poor chart --

1       organizational chart -- for the BIA -- but as  
2       you can see, at the top of the ladder is the  
3       Assistant Secretary for Indian Affairs,  
4       Mr. Kevin Gover -- and if you'll look through  
5       all the bureaucracy and so forth -- if you look  
6       to the far left hand on the bottom, you see all  
7       the different little functions which are  
8       carried out within the bureau -- and if you  
9       look at the straight line right down the middle  
10      of the page, you'll see where the area office  
11      sits. There are 12 area offices; Navajo being  
12      one of them, Albuquerque being another -- and,  
13      then, we have our agencies -- and we have five  
14      agencies on Navajo -- within Navajo area  
15      that -- that divide up, primarily, the land  
16      based on Navajo into five sections for  
17      administration.

18            Okay. Next slide, please. Okay. As far  
19      as the BRAC programs in which the BIA has  
20      participated representing Native American  
21      interests for both of our clients, we have the  
22      BCT -- which is the Base Closure Team -- we  
23      participate on the RAB -- on the Restoration  
24      Advisory Board -- and BIA Navajo -- myself --  
25      has the honor of being nominated, selected and

1        advocated for by both tribe -- the Zuni and the  
2        Navajo -- which I think is quite an  
3        accomplishment for any agency, especially those  
4        dealing with their clients. I thank both tribe  
5        for that excellent opportunity. Being  
6        Native American, I can truly appreciate,  
7        you know, the working together and the -- the  
8        positive step we've taken forward in this  
9        activity. I see that the Army has recently  
10       issued a Native American policy and I hope that  
11       they're not just words on paper and that the  
12       Army and the military believe in every word  
13       they wrote and they go forward in a positive  
14       manner, as well. I know it's taken the bureau  
15       a long time to get to that point.

16                We also participate in the Department of  
17       Interior -- Department of Defense --  
18       quarterly -- with the tribe on their quarterly  
19       review of projects going on and we have even  
20       managed to weasel into the peer review team,  
21       which we're told is a highly technical team  
22       which only deals with environmental issues, but  
23       we've got our foot in the door and we're very  
24       happy with that. Because a lot of times even  
25       though some areas are strictly scientific in



1 nature, there is room for cultural input in all  
2 facets of restoration.

3 Next slide, please. Okay. The bureau  
4 will use the land acquisition processes as  
5 provided under 25 CFR, Indians, for managing  
6 the lands that are acquired under -- at  
7 Fort Wingate under the BRAC process. This will  
8 include but not be limited to the two primary  
9 areas. One which is leasing and permitting,  
10 which is 25-CFR-162 and existing leases which  
11 are currently on site where the Army will leave  
12 its contractor in place is TPL -- the  
13 ammunitions recycler. We will also use this  
14 process to determine future leasing.

15 The second part of it would be  
16 rights-of-way over Indian lands under  
17 25-CFR-269. These include power lines,  
18 pipelines -- existing lines of both power,  
19 water and gas. One of these -- One of the  
20 agencies that the Department of Defense will  
21 find impacted because of this is their BMDO --  
22 their Ballistic Missile Defense Organization.  
23 The waterlines begin at the northern parcel,  
24 which is in the white parcel near the  
25 administrative reserve -- close to that black

1 dot -- and BMDO's facilities are on the east  
2 ridge of the military reservation as well as  
3 the west ridge. We hope that we can negotiate  
4 a beneficial arrangement for both  
5 organizations.

6 We do have existing utility corridors  
7 which the Army has allowed to be created on the  
8 most northern portion of the parcel, which are  
9 Transwestern Pipelines, which are major  
10 pipeline arteries to Texas and -- as well as  
11 the power lines that run through that utility  
12 corridor. Again, when those come up for  
13 negotiation, we will work for the beneficial  
14 use of both the Navajo and Zuni tribe so that  
15 maximum royalties can be received for the use  
16 of their lands.

17 One problem we do have with -- that we're  
18 still trying to figure out how we're going to  
19 manage is -- if you'll notice on the map, the  
20 blue area by BMDO -- they've -- they've  
21 landlocked the southern parcel. We have no  
22 access through there except for extreme  
23 emergency and we're not quite sure how we're  
24 going to manage that. We're going to have to  
25 enter into some sort of negotiation with either

1       the Latis who own the land to the east of the  
2       Fort Wingate Military Reservation or with  
3       Cibola National Forest which own the lands to  
4       the south and the southeastern corner where the  
5       current access lies, but it is not a permanent  
6       right-of-way for us -- and I'm not sure what --  
7       what right-of-way the military has for entering  
8       through that site, but they do have an access  
9       through there.

10           As far as the environmental -- Next  
11       slide -- and we briefly -- yeah -- we -- this  
12       the 25-CFR. So, basically, there is a CFR that  
13       covers how the government is supposed to deal  
14       with Indians. It's a very interesting  
15       document.

16           Under RCRA, all the projects at the site  
17       have, in the opinion of the -- the restoration  
18       team there -- the BTC -- they will all fall  
19       under the RCRA categories. As you can see,  
20       they've created this flowchart, which they  
21       understand better than I do. We are not the  
22       land managers yet. But some of the activities  
23       that are currently on this flow chart, such as  
24       the post-closure care plan and the permitting  
25       activities prepared and submitted to the State

1 of New Mexico -- NMED -- will be with us long  
2 after the Army and the military departs. I  
3 suspect this will change in the near future,  
4 because NMED has made a decision to charge fees  
5 for their permits for their management  
6 oversight and I understand that a permit will  
7 cost somewhere around 90,000 per unit. The  
8 BMDO will be affected by that in that the  
9 New Mexico Environmental Department looks at  
10 each cell as a unit on -- on the OB/OD area --  
11 the open burning/open detonation area -- and  
12 each unit will cost the Army \$90,000 to -- to  
13 apply for a permit and award a permit. So --  
14 14 times 90 is a considerable amount of money  
15 for permitting, in the Army's opinion.

16 There are also 45 AOCs -- areas of  
17 concern -- throughout the whole reservation.  
18 You can kind of see it in the red markings.  
19 Those each -- depending on negotiations and how  
20 they come out, there's a potential for  
21 45 permits at 90,000 a piece.

22 Let's see. What is this? As far as the  
23 cleanup, we do have somewhere groundwater  
24 contamination -- and this may involve an  
25 application by the tribe for a natural resource

1 damage. On the eastern portion of the military  
2 reservation, we have a plume that has migrated  
3 off site as a result of activities in a  
4 regulated unit -- the OB/OD area. It will be  
5 necessary to acquire monitoring wells and track  
6 the plume and decide whether or not that  
7 particular contamination stream has hit the  
8 potable water system in the area. We do have a  
9 contamination plume which the Army feels  
10 through its testing process is an artificial  
11 aquifer created by the TNT leachate beds that  
12 were operated for washing of munitions -- and,  
13 again, I did mention the area of concerns.

14 Next slide, please. Okay. There were  
15 some areas of concern on the southern parcel,  
16 which is the white on the map that looks  
17 relatively clear -- and in the beginning, we  
18 were told that we would receive all of  
19 Fort Wingate -- the entire -- approximately  
20 22,000 acres. We come to find out that -- that  
21 the Ballistic Missile Defense Organization will  
22 keep that site, but there were also launch  
23 sites on the southern parcel where the red dots  
24 are -- the red circles -- there was a purging  
25 missile site. We found nitrate and nitrite

1 hits there. There was an unused missile site  
2 for which we can find no record where missiles  
3 were launched, but -- that have come out clean  
4 in the testing. So, based on that, the State  
5 of New Mexico issued a no-further action  
6 determination.

7 Next slide, please. Okay. As you can  
8 see, the reservation itself covers a large land  
9 base in three states. The dark areas represent  
10 Indian lands in the Four Corners Area in the  
11 states. You can see that Navajo is impacted by  
12 flights, missile launchings from the  
13 Green River complex as well as the Fort Wingate  
14 complex. We have a school immediately to the  
15 east of the launch pad. We have a student  
16 population of 1,000 boarding school students  
17 there -- and when they launch those missiles,  
18 you can hear the ground shake in the  
19 buildings.

20 Okay. As far as risk assessment, we have  
21 dealt with the idea of risk assessment in that  
22 the Army has invited us to participate in  
23 defining what the risks are for Native American  
24 issues. In our -- In our studies, we have  
25 defined cultural issues -- which should be

1 included in a risk assessment -- which are not  
2 necessarily included in the general  
3 population. These cultural issues involve the  
4 religious use of plants and animals, the  
5 religious use of sites and protections of these  
6 sites and protection of archeological resources  
7 as explained by Ms. Begay-Platero.

8 We also have traditional values or issues  
9 that are associated with this -- with the  
10 area -- and, again, that's life occupancy. In  
11 most areas, I think that the national norm for  
12 risk assessment is 30 years for life. On  
13 Navajo lands, it can be 50 or 60 years or  
14 longer. There's also the issue of subsistence  
15 farming and grazing. Most people will farm and  
16 graze within their immediate area. They do not  
17 go out and farm in a -- you know, they don't  
18 live in a farmhouse and go way out. They'll go  
19 right around their home. So, the -- the action  
20 levels need to be raised and -- and modified  
21 for those types of things.

22 We also have native food gathering. I  
23 think the only place I've ever heard of  
24 individuals going out and harvesting native  
25 foods was people that go hunt mushrooms back

1 east -- or wherever mushrooms grow. If you'll  
2 look at the white -- at the map -- on the white  
3 parcel right next to the OB/OD area -- that is  
4 prime pinon-picking country. Since we do have  
5 a groundwater contamination issue, there's a  
6 chance that the trees may be up-taking that  
7 contamination and putting them into the pinons,  
8 but -- you know, there have been no validations  
9 of that potential -- and that's one of the  
10 areas that we believe the Army needs to look at  
11 as far as environmental restoration -- and,  
12 then, we also talk about use of the animals.

13 Wingate was unique in that the Army  
14 entered into multiple agreements with various  
15 government agencies, one of them being the  
16 State of New Mexico Game & Fish Department  
17 wherein they allowed the use by the New Mexico  
18 Game & Fish for the grazing area for  
19 approximately 75 buffalo -- or bison -- sorry.  
20 These bison were primarily kept in the -- in  
21 this -- as the map depicts -- on the northern  
22 parcel. The dotted line is the line where the  
23 Ballistic Missile Defense Organization will  
24 construct a security fence to keep buffalo  
25 out -- and people. The state wanted to



1       actively hunt the buffalo. It made the  
2       national news. Some of you may have heard  
3       about it. There was such a public outcry  
4       against killing this national symbol that the  
5       hunt was called off. They now have a  
6       population of around 75 or 76 buffalo, which  
7       are at maximum capacity for that area. They  
8       wrote an EA. The EA was adopted and used by  
9       the Department of Army for the removal of bison  
10      as ordered under a court decision. After the  
11      defenders and wildlife -- or whoever wrote  
12      that -- brought suit against the government and  
13      the State of New Mexico.

14             The removal is scheduled to take place --  
15      was scheduled recently to take place in  
16      January of '99, but because of weather  
17      conditions and so on -- it's been a very warm  
18      winter -- it's now been moved back to March of  
19      '99. At that point, they will use capturing  
20      methods -- herding with a helicopter -- and --  
21      and, then, the tranquilizing the older bulls --  
22      and, hopefully, the older bulls will survive  
23      the move. They're the -- the larger population  
24      at risk.

25             We do have, I guess, issues that we would

1       like to bring forward. We have a very big  
2       communication issue with Department of  
3       Defense. The Department of Defense is such a  
4       big organization. It is very difficult to --  
5       to decide who's on first. We have the IOC  
6       running the facilities and issuing agreements  
7       and contracts. We have separate contracts  
8       being issued by Department of Defense for Navy  
9       and -- and -- for munitions recycling. We have  
10      separate contracts for -- being issued under  
11      the Department of Army through Tooele. We have  
12      the Army Corps of Engineers out of Albuquerque  
13      handling the archeology. We have the  
14      Army Corps of Engineers handling -- for the --  
15      of roads and other infrastructure developments  
16      that are planned to support their remaining  
17      parcels in -- in Fort Worth -- and, then, we  
18      have the attorneys in Rockville -- or -- or  
19      wherever they're from -- back east somewhere.  
20      It's -- I get really confused as to who I  
21      should call every time we come up with an  
22      issue. We do have the BTC coordinator, which  
23      is Larry Fisher at -- at Aquela (phonetic)  
24      and -- but Larry sometimes has difficulty  
25      deciding who to call based on the question --

WORKING DRAFT

1       because it may involve three or four -- and, of  
2       course, they all live out of state -- and I  
3       don't know if anybody has ever tried to call  
4       Gallup, New Mexico, or not, but it can be  
5       difficult at best -- even under the best  
6       weather conditions.

7               We also have the issue of the current  
8       permitting process. The State of New Mexico  
9       will issue the permits. We will acquire  
10      properties on the northern side -- which may or  
11      may not fall under those permits -- by  
12      September of '99, at which point this permit  
13      will now be on Indian lands. The Navajo Nation  
14      and the Zuni tribe have adamantly opposed state  
15      permits and strict jurisdiction over their  
16      lands, because it -- it challenges their  
17      sovereignty. As a result, those permits will  
18      probably immediately go into renegotiation.  
19      The bureau's position is that the Army should  
20      negotiate straight with EPA, leave out the  
21      middle man and keep New Mexico's Environmental  
22      Department and all of those permits so the  
23      transition will go smoothly.

24              MS. PERRI: How much longer do we  
25      have for your -- Is each person going to

1 speak?

2 Okay. Can you wrap up your portion? I  
3 just want to make sure we get to everybody and  
4 we have an opportunity for questions.

5 MS. DUWYENIE: Okay. We still have a  
6 problem with -- let's see -- with the Army  
7 leaving its contractors in place without  
8 adequate environmental audits, reviews and  
9 operation plans. These involve the use -- as  
10 piecemeal -- and, I guess, basically -- to  
11 allow the rest of the group time.

12 Thank you for listening.

13 MS. PERRI: Thank you very much.

14 MR. WEIS: Hello. I'm Robert Weis  
15 with Sierra Army Depot. I want to thank you  
16 for the opportunity to present here.

17 Sierra Army Depot is located in the  
18 northeastern -- from California. We have had  
19 the good fortune to work with the Susanville  
20 Indian Rancheria -- and like any government  
21 agency, we come up with acronyms -- so I may  
22 say "SIR" when I deal with the Susanville  
23 Indian Rancheria.

24 Next slide, please. Early on -- We were a  
25 1995 BRAC -- real quick for you. We were very

1       fortunate to have all the previous BRACs before  
2       us learn the lessons. Committees like this  
3       took those lessons and developed systems.  
4       We're going to talk about the NEPA process that  
5       was developed. NEPA -- early on in this  
6       process -- was used as a tool to kind of --  
7       when communities had to stop BRAC. So, we'll  
8       go through NEPA, where we used a categorical  
9       exclusion and really give you a success story  
10      from an environmental standpoint in that  
11      when -- when the Council of Environmental  
12      Quality worked with the Department of Defense  
13      and developed NEPA, there was a -- as I said,  
14      a lot of concern with NEPA being used just  
15      to -- by a community that got BRAC'd -- they  
16      can use NEPA, because it is going to be an  
17      impact. Stop. Well, NEPA now looks at the  
18      fact that we as the government have to reduce  
19      the size of certain things. We can do that.  
20      When we developed this through the Department  
21      of Defense, we used a thing where we would  
22      connect our NEPA with the reuse plan -- because  
23      we felt it was a very safe way to help  
24      communication with our communities.  
25              Well, within that structure that we built,

1       we were also concerned because we knew we would  
2       be dealing with properties at different times  
3       within the BRAC frame -- there may be a  
4       possibility for segmentation of NEPA. With  
5       that in mind, what happened with Sierra Army  
6       Depot was we had to develop coordination with  
7       our Susanville Indian Rancheria -- because they  
8       came to us with a very specific need.

9               Next slide, please. Susanville Indian  
10       Rancheria -- and Victor will expand on their --  
11       their needs and their development -- identified  
12       a need for reuse immediately into the  
13       process -- and that's where I'm going to say a  
14       good news story -- a very effective tool  
15       Department of Defense uses is the BTC.  
16       Jimmy Spain did an excellent job as BTC. He  
17       went out, he canvassed the community, he  
18       identified and worked with the SIR. They had a  
19       need to set up a youth treatment center on a  
20       very short time schedule. We were very early  
21       into BRAC. We were a '95 BRAC. Our community  
22       really was just forming the LRA as they  
23       identified this need. So, we didn't have our  
24       NEPA documentation done. To get to the chase,  
25       Sierra Army ended up doing an environmental

WORKING DRAFT

1       assessment -- because we are a realignment  
2       which creates its own problems.

3               So, we -- we were doing our NEPA  
4       screening -- worked with a lot of people -- we  
5       went down, we got with the people at  
6       Sacramento Army Depot immediately after our  
7       training from DoD -- "What can we do to help  
8       speed the process along?" Excellent work from  
9       Dan Oppen (phonetic) and the people there.  
10      They put us in touch with all the cultural  
11      people -- tried to get those things moving --  
12      but that was not going to be fast enough to  
13      meet the needs of the Susanville Indian  
14      Rancheria.

15             So, basically, we stood back and we looked  
16      at what option -- and we knew within our  
17      structure some of the good work before on NEPA  
18      included the potential use of a categorical  
19      exclusion. So, we approached our command  
20      structure with categorical exclusion -- and,  
21      of course, because we had -- we had the concern  
22      within our guidance about segmentation, we had  
23      mixed reviews met within our command.

24             Next slide, please. And that -- Go on.  
25      I'll let Victor talk to the map slides. Pull

1       the map slides out there -- and he'll use those  
2       for his piece so we can move this along.

3             I'm going to get to the chase pretty quick  
4       here. What we did is we used -- the use of a  
5       categorical exclusion. We identified that to  
6       our command. There was a real concern about  
7       segmentation. This is where the BTC came in  
8       very effective. I think Jimmy got in touch  
9       with Rick Newsome's office -- that's always  
10      been great supporting this -- they felt it's a  
11      very good concept that you -- and that --  
12      and, basically, we -- we broke it down into an  
13      equation. We were -- They needed houses for  
14      the youth treatment center and we were giving  
15      houses for the use of houses. They needed an  
16      administration building, we were giving them an  
17      administration building for the use of an  
18      administration building. It's an equation. It  
19      was a zero environmental impact -- exactly what  
20      we used those buildings for. Rick's office  
21      came in -- in favor of it. Jimmy worked with  
22      some of the other offices. I worked with our  
23      out-of-state BRAC. Our regulators were  
24      excellent. They worked our -- our  
25      environmental condition of the property real



1 fast. We put everything in place. So, the  
2 bottom line is, you can use a categorical  
3 exclusion.

4 What this did for the Army and did for the  
5 Susanville Indian Rancheria was -- it allowed  
6 us to be the first BRAC transfer to  
7 Native Americans -- and, again, Jimmy was out  
8 working the whole community. We got co-use of  
9 the clinic -- and this is a real unique thing.  
10 Because the people came in line with the BTC  
11 function going on for each region, everyone  
12 become motivated in the process. Our  
13 regulators moved out fast. Our Army  
14 Environmental Center helped part of our  
15 contract. Our Corps of Engineers moved out  
16 fast. Everyone moved out -- and, then, there  
17 was this co-use of the clinic that helped  
18 support the Rancheria. Our command got on line  
19 with that. The Rancheria pulled together and  
20 worked through the MOA issues and some of the  
21 things on co-use at work. So, we ended up  
22 being the first transfer of BRAC property in  
23 '95. We transferred within a time frame that  
24 we -- I think we did this fairly -- in a  
25 two-year initiative -- to do a transfer of

1 property.

2 One of the biggest things that come out of  
3 this, then, is -- I think our command structure  
4 picked up -- and they do brief at  
5 conferences -- look at where a categorical  
6 exclusion can be successful -- and, of course,  
7 working with the Indians -- they -- they had  
8 a plan, they came to the table ready to go,  
9 they created new jobs for the community.

10 Thank you much.

11 MR. PRESTON: Good morning,  
12 everybody. As I said -- as was -- Jimmy said  
13 earlier, my name is Victor Preston. I'm the  
14 tribal chairman at the Susanville Indian  
15 Rancheria.

16 The original area was the traditional  
17 homeland for three different nations. So, we  
18 kind of developed -- kind of this -- this --  
19 this easy way to identify and say, "Hi," to  
20 each other, which is "Haa," so that way we  
21 could all greet each other.

22 When I first came -- this -- this coming  
23 Saturday will be my first -- my first State of  
24 the Union address to my nation. I've only been  
25 tribal chairman for just about a year right

1       now -- and, so, I came in, so to speak -- I hit  
2       the dirt running in regard to this incredibly  
3       big project and also in regard to other --  
4       other important projects that were going on  
5       with our tribe and also -- and also with tribes  
6       throughout the state. So, I've been very --  
7       very much involved and very active in a  
8       whole -- in a number of activities.

9               This -- This project we're working on now,  
10       of course, the transfer of property from the  
11       Sierra Army Depot to our Rancheria began,  
12       actually, in 1995, when -- when we were first  
13       notified by the Army that there was going to be  
14       the excess of property and the transfer of  
15       parcels to our tribe. Our tribe developed this  
16       plan, as we said earlier, and our tribe -- our  
17       tribe, then, began to implement this plan in  
18       the -- the acquisition of these -- of these  
19       parcels.

20              An important aspect that I wanted to  
21       present to you, though -- which relates to the  
22       transfer -- is the -- is the cultural ties --  
23       the archeological ties -- that -- that native  
24       people have to -- to land. Across the nation,  
25       there are -- really are -- there really are no

1 parcels of land anywhere that anyone can say to  
2 us has no significant tie to us in any way --  
3 and in regard to the parcels at Herlong, you  
4 have to picture this valley that we live in.

5 We have a map here, but it doesn't give  
6 a -- it doesn't give a real good indication of  
7 the actual area itself. All I can say is  
8 that -- is that this is -- as I tell people in  
9 my travels, we're in California, but this is  
10 not -- this is not palm trees and beach and --  
11 this is a whole different perspective on what  
12 California is like.

13 The area is the -- is the high desert.  
14 The elevation is on the average of 5,000 feet  
15 and you will see quite a bit of snow in the  
16 wintertime, but, also, it's an -- it's an --  
17 it's an important part of an environment in  
18 that it's a thoroughway for vast migrations of  
19 ducks and geese. And, so, that whole valley  
20 there was always -- has always been -- for  
21 thousands of years -- a very important  
22 gathering place for the native nations and the  
23 nations who we share the valley with are --  
24 along with -- with us, the -- the Paiute -- or  
25 as we call ourselves, the watery -- the

1        watery -- or grass eaters -- the grass that we  
2        talk about is the grass that grows along the  
3        rivers and along -- and around that lake -- but  
4        we also share the area with the members of the  
5        Washoe -- Washoe Nation and also with the Maidu  
6        Nation, to the north of us -- the Big River  
7        Nation -- and, traditionally, this area took on  
8        a very significant purpose for all of our  
9        nations in that the Honey Lake Valley itself  
10       became a trade center -- a gathering place --  
11       for all the nations to come to trade and -- and  
12       to barter, but also to heal -- and this is an  
13       important aspect that most literature does not  
14       reflect -- nor does the archeological/  
15       etymological literature reflect this important  
16       purpose to us -- because in the field of  
17       archeology and etymology, it seems that -- that  
18       religion and spiritualism are not significant.  
19       But to us, religion and spiritualism are very  
20       important aspects to our very survival. And  
21       what makes this area -- this entire valley so  
22       significant to us is that this was an official  
23       gathering place where people came to learn to  
24       become, so to speak, Indian doctors or -- or  
25       healers. The mountains in the area --

1       around -- around the area were places where  
2       people would go to seek solace and solitude, to  
3       talk to the creator. They would come back from  
4       the mountains and -- and -- and bathe and  
5       sweat around natural geothermal hot springs  
6       that, also, are quite abundant in the area.  
7       And, so, these people were trained to go out  
8       throughout the great basin area to -- back to  
9       the people to -- to provide this healing and  
10      guidance to people. And, so, that is, in  
11      short, what is the traditional area that we  
12      come from there. And, so, for us to have an  
13      opportunity to regain parcels of this land  
14      again is extremely significant and important to  
15      us. That is why, as part of our reuse plan, we  
16      included -- we included documentation to  
17      support our ties to the land, but also we -- we  
18      set aside certain parcels -- primarily where  
19      there's -- an area called the East Shore  
20      Parcel, which is not on that map right there.  
21      This -- This map here actually -- actually  
22      shows some of our original acquisitions.

23           This is actually -- The map here in blue  
24      shows the -- our first acquisitions -- which  
25      include a hospital -- which, of course, as we

1        mentioned earlier, is now a -- is a -- there's  
2        a co-use agreement between the Army and the  
3        Rancheria and the local community for the  
4        Rancheria to provide health services and  
5        medical services to -- to the -- to all the  
6        entities involved. The other area -- larger  
7        area indicates -- indicates the -- the housing  
8        area that we also acquired. There's 120  
9        housing units in that area -- and right now, we  
10       have about -- 80 percent of those units are  
11       currently inhabited by people who are employees  
12       of the Army, people who are employees of the  
13       Rancheria, people who -- who are residents of  
14       the Herlong area -- and we also have set aside  
15       housing units for -- for -- to be temporarily  
16       used by our youth treatment center until --  
17       until we acquire the additional -- the  
18       additional department complex that we talked --  
19       in the models -- and the dining facility --  
20       which will take place soon.

21       We also -- We also -- in cooperation with  
22       our -- our county -- in the area -- and also  
23       the Greenville Rancheria, which is also in the  
24       area there near to us -- we have -- we're -- we  
25       just recently set up an agreement to create a

1       safe home for -- for battered women and for  
2       other -- other people who are in need. This,  
3       also, will be used not only by our tribes, but  
4       also made available to the county for its use.

5             An important aspect of us -- which is  
6       unique to our area here -- is the establishment  
7       of a close working relationship with the county  
8       and -- and its -- its -- its authority that  
9       they set up under the BRAC law. What we were  
10      trying to do there and what we are trying to do  
11      currently with the Army right now is -- we are  
12      trying to set up a revenue-sharing agreement --  
13      and we are currently in negotiations with our  
14      county locally. A revenue-sharing agreement is  
15      an agreement that we're going into as we try to  
16      meet with the county to help them understand  
17      what the BRAC process is about, but also what  
18      Indian nations are about and what trust status  
19      means to us and how important our sovereignty  
20      is to us. And, so, the -- the county had  
21      originally requested that we take the land not  
22      into trust but into fee. So, we've spent a lot  
23      of time trying to explain to them what -- what  
24      trust status means to us. But since we want to  
25      be a partner with our county, since we want to



1       be -- to be very much involved in the -- in the  
2       development of our county, what we've -- what  
3       we've been doing with them is sitting down in a  
4       process that began earlier -- early last  
5       year -- to sit down and work out this  
6       revenue-sharing plan. So, that's --  
7       (inaudible) put our land in trust.

8               Part of our plan includes -- includes  
9       further developments and we've been contacting  
10      some potential investors who -- who are looking  
11      at the parcels we are acquiring and also other  
12      parcels that we could be acquiring in the  
13      future -- and we had some plans to -- to --  
14      to possibly bring in -- bring in some light  
15      industry, some high-tech firms, possibly. We  
16      have a lot of ideas out there. It's important  
17      that we have a strong vision of what we could  
18      do out there. There's also an airport to the  
19      north section of the -- of this property,  
20      which -- which in total is -- what -- 700 --  
21      how many acres all -- in all is the --

22              MR. WEIS: We've -- We've exceeded a  
23      little over 4,400 acres. The airstrip is --  
24      area -- is about 2,500 acres -- and land  
25      mass -- Sierra Army Depot is over 35,000 acres

1 or so, plus about a 60,000-acre lake or so.  
2 Those kind of numbers, though -- It's a very  
3 large area.

4 MR. PRESTON: Yeah. There are  
5 large -- There are large -- It's a large tract  
6 of land and there's a lot of potential out  
7 there -- and what we tried to do with our  
8 county is explain to them that -- that the  
9 development of this -- this agreement -- this  
10 agreement that we're working on -- that should  
11 be -- what we're trying to encourage the  
12 county to do is to work with us, but also  
13 possibly -- possibly transfer their parcels  
14 that they may be acquiring and allow -- put  
15 their parcels in trust status with the -- the  
16 logic being that -- that we can do a whole lot  
17 more with the land in trust status than the  
18 county could ever do with the land in -- in --  
19 under its own jurisdiction and, also, in the  
20 jurisdiction of the City of California.

21 We -- We believe that we can develop the  
22 land and create jobs in and opportunities for  
23 the -- for the entire county and its population  
24 and we can bring in -- we can bring in a whole  
25 lot of development there that would benefit all

1 of us as a whole. So -- the -- the key,  
2 though, for us right now is to -- is trying  
3 to -- is trying to get the county to understand  
4 the potential that we have. That's kind of a  
5 sticky issue, because -- because for the  
6 past -- for the past 200 years, the people in  
7 the county have always looked to the Indian  
8 people in a different light and it's been a  
9 little -- a bit of a difficult transition for  
10 them to come to see us not as just the people  
11 who used to work on their ranches and do their  
12 work for them and do their laundry for them and  
13 to see us as people who -- who have the  
14 potential to be entrepreneurs, who have the  
15 potential to be developers, who have potential  
16 to make a significant contribution to the  
17 tribe -- and that's the educational process  
18 that we're going through right now -- and the  
19 barriers -- environmental barriers and the  
20 barriers of our history and the barriers  
21 are -- are -- are a way that -- that people  
22 have always viewed Indians out in the west and  
23 we're working real hard to address these --  
24 these issues and we're hoping that we're going  
25 to be a success story and that we can set an

1 example for future acquisitions.

2 Of course, there are other problems we've  
3 had to deal with and encountered, that --  
4 problems with the Bureau of Indian Affairs  
5 in -- in -- in helping us to -- to get trust  
6 status. Probably the biggest problem we've had  
7 is that the Bureau of Indian Affairs, really,  
8 was not prepared to deal with us after we had  
9 our first properties transferred to us. The  
10 Bureau of Indian Affairs stated to us that --  
11 that in order for them to give us trust status  
12 that we had to go -- I mean, literally rewrite  
13 the book and start it all over again and to go  
14 through their CFR-151, being a trust  
15 application process. They had no other -- They  
16 had no other method to address the issue of --  
17 of a government-to-government transfer -- and  
18 that's the big issue -- was that this was a  
19 government-to-government transfer and not a  
20 deed of trust transfer -- which is all the --  
21 which is the only policy BIA has to work with.  
22 So, we have been working diligently with the  
23 Bureau of Indian Affairs and Department of  
24 Interior along with the Army to try -- to try  
25 and develop some amendments to this 151

WORKING DRAFT

1 process, which had taken into consideration the  
2 BRAC process -- and we were trying to do this  
3 in order to save tribes in the future who will  
4 be going through the same problems that we've  
5 encountered that have slowed the -- the trust  
6 status of our land that we're acquiring. And,  
7 so, we -- we are glad we have you all here  
8 because this gives us an opportunity to -- to  
9 let you know some of the problems we've  
10 encountered, but also some of our vision for  
11 the future -- and we're hoping that this will  
12 help educate the people here in -- in helping  
13 us, along with your agencies, resolve the  
14 problems that we're encountering right now with  
15 the Department of Interior, with the local  
16 entities -- like our counties -- and with  
17 other agencies -- and we're hoping that we can  
18 streamline this process and coordinate it so  
19 that tribes in the future will be able to take  
20 advantage of this opportunity to regain their  
21 culture and regain lands which are  
22 traditionally theirs.

23 Thank you.

24 MS. PERRI: Thank you.

25 MR. SPAIN: Marcia, could you put the

1 area map back up, please, on Susanville -- or  
2 the SIR.

3 MS. MINTER: The parcel or --

4 MR. SPAIN: The area map. One of the  
5 things -- and it's not covered here, but it's  
6 a -- it's off to the -- to the left -- upper  
7 left from the Army depot -- is a 60 --  
8 60-some-odd-thousand-acre lake that  
9 intermittently dries up in the summertime,  
10 depending on what the weather conditions are  
11 and whatnot -- it's -- It's been full lately,  
12 but it also went into a seven-year period of  
13 being dry -- and -- and this is the lake that  
14 Victor was addressing earlier that -- with  
15 tribes -- they trace their history back 12,500  
16 years. There is no economic value to this  
17 lake. It cannot be developed. A lake that  
18 goes dry every seven or eight years -- you  
19 can't have any real economic development, yet  
20 it's very important to the tribes. It's not  
21 important to the local community as far as  
22 being able to develop it. It has some  
23 contamination problems -- and -- and those  
24 things would, obviously, have to be  
25 addressed -- but in a federal-to-federal

1 transfer, it's usually much more easily  
2 addressed than in a state transfer. The state  
3 has already told the Army there is a number of  
4 studies that are going to have to be done that  
5 are going to cost thousands -- hundreds of  
6 thousands of dollars and take years to do.

7         These are the kinds of things that you can  
8 find throughout the country -- that -- that  
9 properties that could very quickly be  
10 transferred federal-to-federal to tribes that  
11 have interest but are not necessarily job, job,  
12 job creation. I understand the President's  
13 five-part plan. I understand that job creation  
14 is the number one goal in turning  
15 installations, turning sores into pie shares,  
16 but that's not always appropriate -- and I  
17 think that that one area that DoD and DOI  
18 missed in the negotiations and coming up with  
19 BRIM was the fact that not -- that jobs are not  
20 always what is most important -- and there  
21 are -- there are a number of tribes that that  
22 is -- that is not important at all.

23                 MS. PERRI: Okay. Our last speaker.

24                 MR. CHOUDHURY: Clarification: BRIM  
25 refers to the DoD Base Reuse Implementation

1 Manual, which covers all BRAC property reuse  
2 and council process.

3 MR. GUASSAC: Good afternoon. My  
4 name is Louis Guassac. "Howca-mutmur." That's  
5 our language from Southern California between  
6 our people. It's a greeting.

7 I really take this opportunity to --  
8 really pleased to have this opportunity to come  
9 here and talk to you today. I've been involved  
10 in the BRAC process since late 1993 -- and as  
11 mentioned before in my bio that -- I served on  
12 a national task force that responded to the  
13 BRAC process in 1995 in regards to how it  
14 impacted tribal governments.

15 I want to take this time to go over  
16 some -- When I was advised of this opportunity  
17 to come speak to you today, I was told I had  
18 five minutes. So, I said, "Well, I'll try o  
19 condense five years into a 30-second slot or  
20 something like that." So, here -- I'll start  
21 with the overview of tribal participation. The  
22 Notice of Availability of Excess & Real  
23 Property: When that notice -- an NOA was sent  
24 out, the Department of Defense sent it to the  
25 BIA Central Office -- and in my research and



1 work, I learned that the -- the paperwork  
2 actually never made it to -- or maybe never  
3 made it over to Central Office in California.  
4 None of the tribes in our area ever received an  
5 NOA. So, in regards to: Can we respond in  
6 30 days to a letter of intent? No. We don't  
7 know about it. So, that was one of our first  
8 obstacles, if you will.

9 Later, after we did learn a little bit  
10 about the base closure, we did meet with the  
11 Department of the Navy there in San Diego and  
12 the LRA -- Local Reuse Authority -- which is  
13 the City Council for the City of San Diego. We  
14 made a request that we participate in this  
15 process -- and that was done on April 27th,  
16 1994, at a reuse committee meeting. We asked  
17 for a seat on the LRA -- or reuse committee.  
18 We were denied that. So, we thought we'd do it  
19 anyway just to see what would happen. Then,  
20 the Navy responded by saying, "We want you to  
21 come up with a proposal" -- since we were able  
22 to demonstrate that we never got an NOA -- "We  
23 want you to come up with a proposal within 'X'  
24 period of time." We got an extension. We  
25 said, "Well, that's just a little too quick for

WORKING DRAFT

1       us. We can't do it in 30 days, but maybe we  
2       can do it in 60." So, they did give us up till  
3       September 20th of 1994 to come up with an  
4       intent -- a purpose -- a usage of the base --  
5       and we did. We submitted a proposal -- and,  
6       Marcia, you can flip over to that -- the one I  
7       handed you right before -- a few minutes ago.  
8       There you go.

9               Okay. It's really not very clear here,  
10       because it's a black and white image and this  
11       is really nice color paper that we did for  
12       this, but it outlines what we could do under a  
13       638 conveyance. So, if you're looking at this  
14       from a public point of view, you're going,  
15       "Well, gee, it's only just for this" -- "this  
16       and that." Well, we have to stay within  
17       constraints and what we could ask for at the  
18       time -- and, so, we outlined a cultural center,  
19       we outlined a (inaudible) cultural project,  
20       because we as Kumeyaay people once inhabited --  
21       once inhabited those areas and for thousands of  
22       years -- and the shellfish was a very big part  
23       of our way of life and the (inaudible) have  
24       been all fished out after 1900s because --  
25       that's what happened to them. We felt we could

1 bring them back and do a very small first step  
2 effort -- and that bay would lend itself to  
3 this opportunity -- and it's also an  
4 economically viable project. There's a  
5 recreational component and a vocational and a  
6 medical/dental facility. The medical/dental  
7 facility is no longer part of the base closure  
8 process. It's been removed by the Navy.  
9 They're going to retain it. In fact, the left  
10 northwest corner up there all the way down  
11 to -- 88 acres of that is going to be retained  
12 by the Navy for Navy housing.

13 So, we can go back to our original --  
14 yes -- not that one -- the original one.

15 MS. MINTER: Ancestral relationship?

16 MR. GUASSAC: No. The one right  
17 before that. Thank you, Marcia.

18 Okay. So, that covers our request. We  
19 submitted it and the Navy accepted it. The LRA  
20 was present when we delivered this. We were  
21 sure that they were there so they saw that we  
22 have an intent to participate in this process.

23 And, then, I covered, of course,  
24 participation on subcommittees. We were told  
25 that that's where we could participate, but

1       we're not -- were not going to be allowed to  
2       have a seat on the reuse committee. There was  
3       a delay -- it was -- interestingly enough,  
4       after we did start to participate a little more  
5       public, there was a news story about the  
6       Indians coming to town. Then, suddenly, the  
7       LRA got -- during December -- after one of the  
8       reuse committee meetings -- said, "Well, look,  
9       we're going to ask that all federal requests be  
10      stayed until the Local Reuse Authority can  
11      create a master reuse plan." Well, for a -- we  
12      thought, "That's good. Maybe we can see what  
13      they want and we can" -- "we can match" --  
14      you know, "accordingly" -- because we were  
15      going to have another round to offer our  
16      suggestions and what we wanted to do there and  
17      how it can complement their local effort. So,  
18      we're ready to move on, Marcia.

19             This will give you -- Now, we're going to  
20      talk a little bit about the ancestral  
21      relationships to the Naval Training Center  
22      San Diego. As I mentioned before, the Kumeyaay  
23      people have been in this area for approximately  
24      10,000 years. When the Spanish came in, they  
25      found this -- fishing as far as a mile out.

1        Now, this is all documented in recorded history  
2        so it can be found.  It's documented well, as a  
3        matter of fact.

4            We use the tidelands area for medicinal  
5        purposes and -- and marshes for food  
6        gathering.  There was a great deal of extensive  
7        use.  In fact, there was a village in  
8        (inaudible) -- I was just at the mouth of where  
9        the NTC is -- that was one of the largest  
10       villages that the Spanish had recognized and we  
11       had a great deal of use of that -- that bay  
12       opening area there.

13           The EIS:  Interestingly enough, I'm on the  
14        city -- City of San Diego's mailing list for  
15        all notifications of cultural diggings --  
16        whatever it may be -- private -- whatever,  
17        you know -- and, interestingly enough, we -- I  
18        was never -- we were never told about their EIS  
19        for the NTC.  We never received notification of  
20        that -- for whatever reason -- I -- I don't  
21        know what that reason is.  Maybe it was an  
22        oversight.  But in any case, their EIS did --  
23        did show that Kumeyaay people had no  
24        significant usage of the area -- which we found  
25        very intriguing -- because every time they hit

1 a pothole, they found shell fragments and most  
2 of the shell fragments were related to the fact  
3 that there were shell mounds there. The shell  
4 mounds came from our usage of eating  
5 shellfish. Exposure points instead of  
6 character. They hit these several times -- and  
7 I brought that to the attention of Ogden who  
8 was doing the -- the environmental research on  
9 this -- and they were very surprised when I  
10 brought that to their attention. I said,  
11 "Well" -- you know, "you haven't discovered  
12 why this is happening or why you keep finding  
13 this, but maybe it's possibly because they're  
14 shell mounds" -- and they -- they started to  
15 shake their head "yes" after that. But it's  
16 never been (inaudible) after this. So, anyway,  
17 I just thought that was interesting to cover.

18 Okay. Now, the Bureau of Indian Affairs:  
19 Another good subject. The BIA supported our  
20 initial response in regards to -- when we  
21 submitted our proposal on September 19th. We  
22 had the City of San Diego Council accompany  
23 us. The BIA, after some time, just started to  
24 fall off. We're not sure what happened there.  
25 There wasn't -- no one that could really

1 provide any of the technical assistance --  
2 because, frankly, the process that tribes are  
3 used to are through the General Services  
4 Admission to dispose of that excess real  
5 personal property. That's the process we knew  
6 and understand because we've been doing it over  
7 the last 100 years, but this process was a  
8 different process and no one had any real  
9 technical knowledge of how this process  
10 worked -- the BIA. In fact, the  
11 pre-conferences that I was aware of were  
12 canceled during the '95 period and late --  
13 early '96 period. So, tribes were left to  
14 basically go out and scramble for some  
15 experts. Well, I was fortunate that I ran into  
16 a gentleman by the name of Joe Cavanaugh who  
17 was the project manager for the Monterey Base  
18 closure and we brought him in to provide us  
19 some detail on the process.

20 The Local Reuse Authority, today, is the  
21 City of San Diego Council. I think this is one  
22 of the biggest problems that we identified also  
23 back in '95. The LRAs -- I'm a veteran, by the  
24 way, and I -- I kind of saw that when the  
25 Department of Defense was delegated the

1 authority by General Services Administration to  
2 to do the base closure rounds, they looked at  
3 it very clear and distinct. "This is what our  
4 mission is, this is what we're going to do and  
5 this is how it's going to be carried out."  
6 Unfortunately, there was the Department of  
7 Interior -- and I don't think that there was  
8 enough communication between the two for them  
9 to really understand how the Department of  
10 Interior partakes in a disposal process,  
11 because what we found was that the LRA had no  
12 knowledge that that tribal government was going  
13 to be a participant and at what level they can  
14 be a participant -- i.e., on the federal  
15 screening side, tribes naturally stepping on  
16 their 638 in request for property.  
17 Department of Interior, essentially, has no  
18 authority to require as its real personal  
19 property in joining back to the tribe. Now,  
20 they can also acquire property as a tribal  
21 government under the (inaudible) -- So, there's  
22 actually two -- two tiers here for tribal  
23 participation. In the case of the City of San  
24 Diego -- Well, I'll -- I'll call them the  
25 LRA -- Local Reuse Authority -- there was



1       just no knowledge of this. So, it was -- it's  
2       been a real -- real challenge if not -- to try  
3       and work with LRAs.

4             In regards to how the LRA viewed other  
5       federal agencies when the INS said they wanted  
6       "X" amount of acreage, they -- they guaranteed  
7       the land. They just said, "Okay. That's going  
8       to be aside for you." When Fish, Game & Wildlife  
9       stepped in, "Here it is. It's your" -- "your  
10      ball of wax. You guys work out the  
11      paperwork." And -- And when the tribe stepped  
12      in, it was like, "Well, we don't really know  
13      what you need here." Again, this is -- I don't  
14      want to be pounding on the same bad subject,  
15      but that's -- that's what happened -- that's  
16      what's got to be heard and I thank you for the  
17      chance to say it.

18            LRA, focus was special interest from their  
19      constituents. Well -- you know, we did a  
20      polling in San Diego just to learn a little bit  
21      about what the public thinks about what's going  
22      on with how this base should be reused and we  
23      found that what they did not see is that this  
24      land should be given to develop at piecemeal,  
25      then that's it. So, with that consideration,

1       our strategy was developed on how we can  
2       partner -- how we can be part of the community  
3       and be -- provide the type of opportunities  
4       that would be unique -- and we felt that what  
5       we brought to the table was our ability to  
6       streamline the process, the ability to take --  
7       take it and to -- to leave it into trust -- we  
8       can, then, introduce projects that would be  
9       Fast-Track economic development projects --  
10      i.e., we could do -- the -- the land can be  
11      held in trust at a no-cost and that enable us  
12      to attract more people to reuse that property.  
13      A convention center, for instance, could be  
14      done very quickly at a lower cost than what you  
15      actually realize under a private scenario.

16           Okay. So, that brings me -- like I said,  
17      it's five minutes -- so I'm kind of scattered  
18      here. In closing, the NTC: Tribal/Development  
19      Team submit a proposal. Like I mentioned  
20      before, we waited for the LRA to adopt a master  
21      reuse plan, which they did probably four months  
22      ago. We, then, said, "Okay. Well, we're ready  
23      to now show you how our project marries into  
24      your project or how it matches some of the  
25      projects that you've identified" -- and we

1 walked in with a development team capable of  
2 pulling this off. There was five teams that  
3 were vying for the master development spot. Of  
4 those, we were not one of the last three that  
5 are currently in the process. We -- We don't  
6 understand that, either, at this point --  
7 because I think one of the problems is that we  
8 showed that there was tribal participation on  
9 the land of having to control the land. That  
10 may have raised some issues.

11 So, right now, where we're at in this  
12 process -- we're -- we're just now strategizing  
13 where we're going to go from here and we're  
14 looking at how -- did we exhaust our  
15 administrative process? If so, then what are  
16 our options? But for right now, I'd just like  
17 to say I'm really thankful that we had an  
18 opportunity to come here and talk to you-all  
19 about this project.

20 MS. PERRI: Well, thank you. We want  
21 to thank everyone for -- for your information.  
22 I found it to be an excellent presentation --  
23 and, again, we're looking for -- for solutions  
24 here in how to move forward -- and any action  
25 items that you can give us on how we can help

1       facilitate things with other federal agencies  
2       or -- or state governments -- anything we can  
3       do to help you in that area -- I think we want  
4       to do that. If job creation is not a priority,  
5       but other issues are, then we certainly want to  
6       work that into the equation. Obviously, that  
7       was an issue that people had thought about when  
8       they came up with the five-part plan. But that  
9       doesn't mean that we can't, again, move forward  
10      and be flexible within that equation --  
11      and -- and -- yes?

12               MS. BEGAY-PLATERO: I disagree with  
13      Jimmy's perspective. From a nation that has  
14      58 percent unemployment, job creation is an  
15      issue -- and that's why this project is moving  
16      our division to the economic development and  
17      natural resources unit of our tribe.

18               MR. GUASSAC: One last thing --

19               MR. CHOUDHURY: I want to note the  
20      Chair's time --

21               MS. PERRI: Right. Let me have a  
22      response and, then --

23               MR. GUASSAC: Just one other quick  
24      comment -- and that is that this -- this  
25      opportunity to recover some of this ancestral

1 land really ends up solving two problems. One,  
2 tribal governments are -- they're on land bases  
3 that you can't do any economic development  
4 there. For the first time in our recent  
5 history, there is the chance now that we can  
6 take care of two problems. One, that the tribe  
7 will -- some equity there -- and still  
8 complement the local economy. I mean, we can  
9 bring some programs that could just -- just be  
10 a great partnership.

11 MS. PERRI: Right. And what we've  
12 learned about bases is each is unique -- each  
13 situation is unique. This is what I'd like to  
14 do before we move into questions -- we're,  
15 obviously, spending a lot of time on all the  
16 topics during this meeting -- and what I'm  
17 going to recommend is that -- I'm going to go  
18 around the table and have each member ask  
19 questions of this panel and, then, we'll  
20 adjourn for about an hour for lunch -- and,  
21 then, when we resume, we'll take up the state  
22 presentation on land use controls to be  
23 followed by the DoD presentation on land use  
24 controls.

25 I think we -- as an executive group --

1       have agreed that we need a little more time to  
2       think through the annual report and some other  
3       items. So, I see an opportunity here to  
4       condense the time we've allotted for some of  
5       that discussion -- and, then, what I would look  
6       forward to this afternoon is really more an  
7       open discussion on the new issues we've heard  
8       about and how we might want to capitalize on  
9       some of the positive ideas and address some of  
10      the problems that have been raised here -- if  
11      that's acceptable.

12             Thank you. Okay. I'm going to turn to  
13      you, Don, for the first question.

14             MR. GRAY: Thank you. Well, I'm --  
15      it was a very thorough and complete  
16      presentation. I have a lot of detailed  
17      questions to ask you. But at the risk of  
18      making myself unpopular, I do want to ask at  
19      least one question that I hope captures,  
20      though, the essence.

21             It appeared to me from listening to all  
22      the presentations that all the problems have  
23      not been solved necessarily at Fort Wingate,  
24      that the process has gone more smoothly  
25      there -- and, so, I'm -- than it has the Naval

1       Training Center in San Diego -- and, so, I'm  
2       interested in knowing why these -- there is a  
3       difference. One possible answer is one is an  
4       Army facility and one a Navy facility, you had  
5       someone from the Army very deeply involved in  
6       the process at Fort Wingate and it's not  
7       necessarily been the case with the Navy at  
8       San Diego. There may be other reasons and I  
9       would be -- and, also, apparently, there could  
10      even be a difference in your relationships with  
11      the Bureau of Indian Affairs in Arizona and  
12      California. So, I would -- wonder if you could  
13      comment on those two possibilities and suggest  
14      any other possibilities you can think of as to  
15      why the process has been relatively more  
16      successful at one place than the other.

17               MS. PERRI: One person take the lead  
18      on responding.

19               MR. GRAY: Victor and Louis, I think  
20      probably would be the -- and, then, anyone else  
21      that wants to can answer.

22               MR. PRESTON: We haven't been at it  
23      that long in Susanville, but -- as I said  
24      earlier, the Bureau of Indian Affairs -- the  
25      Bureau of Indian Affairs really was not

1       prepared for -- or -- or adequately trained  
2       on how to assist us. They were going on what  
3       they had to go -- which they had used  
4       previously, which was -- which was the CFR-51  
5       process -- which, of course, is a deed of  
6       transfer process and it does not at all address  
7       the issue of government-to-government  
8       transfers -- and that's why we have worked  
9       diligently throughout the past year --  
10      1998 -- to -- to get to the Department of  
11      Interior, Bureau of Indian Affairs and the  
12      Department of Defense to address -- to address  
13      these issues -- and we are going to be working  
14      with other tribes at some national conferences  
15      this year to do a -- a panel, for instance, at  
16      the National Conference of American Indians in  
17      Washington, D.C., later this month in which  
18      this whole -- the whole BRAC process -- the  
19      whole trust -- government-to-government issue  
20      will be addressed -- especially putting land  
21      into trust status. That's -- That's a big  
22      issue with tribes all throughout the nation --  
23      and what we are trying to do is make this --  
24      make this a national issue so that nationally  
25      tribes will come -- come in support of one

WORKING DRAFT



1       another to prevent these problems from  
2       occurring again -- and, so, that's been a big  
3       push this year.

4               MR. GUASSAC: I would just like to  
5       make one addition to that -- is that,  
6       unfortunately, in California -- and I think one  
7       of the problems is the fact that -- and this  
8       just has to get on the table -- there was a  
9       great deal of concern about us getting involved  
10      with the Navy on the San Diego Naval Training  
11      Center -- and we told everybody, "We'll put  
12      that in an MOU. We'll do whatever" -- This is  
13      a chance to do something other than -- This is  
14      a chance to make a difference in our future and  
15      walking together in this century and we're not  
16      so dependent upon the 60-day program and that  
17      the way BIA -- and we can really do something  
18      real here and still, you know -- I mean, that's  
19      why I'm saying that -- in California, I think  
20      there is an issue there. That might answer his  
21      question. Because they're not doing any kind  
22      of land transfer for tribes. In fact, I  
23      just -- think there was just one recently and  
24      in that they had to stipulate there would be no  
25      gaming on the land -- and that was one in eight

1       years.

2                   MS. PERRI: Did you have a point?

3                   MR. SPAIN: I'd just like to say  
4       something before -- before Sharlene talks about  
5       Wingate -- because it's -- it's pretty  
6       involved.

7                   One of the things that DoD or DOI could do  
8       is to -- is to get together to come up with a  
9       process that complement each other rather  
10      than -- than recreating the wheel each time.  
11      For example -- and what I mean by that is that  
12      you go through all the environmental issues for  
13      the Army to sign the transfer document and  
14      lo and behold DOI comes up with redoing the  
15      entire process from their standpoint. There  
16      needs to be some connection at the very  
17      beginning between DOI and DoD on what is  
18      necessary to get to that transfer point.

19                  MS. PERRI: Sharlene, you had a  
20      point?

21                  MS. BEGAY-PLATERO: I think what has  
22      made things smooth with us is that -- with the  
23      Reuse Committee, with its creation and everyone  
24      leaving the table and the tribe leaving the  
25      table and coming back with the city and the

1 county on reuse is that we said we want this  
2 land and we're going to work to get it and we  
3 worked with our bureau to put in the  
4 application and we worked with -- on the tribal  
5 end, working with the Pueblo Zuni and saying,  
6 "Let's work together. Let's have an MOA."  
7 And that started the ball rolling. But -- we  
8 worked with the Department of Interior and  
9 started having our meetings with Department of  
10 Army and saying, "Here's our reuse plan. This  
11 is how we want to go forward. The Zunis  
12 adopted our plan. Let's move forward and let's  
13 get this transferred." And a lot of it had to  
14 do with communication.

15 MS. PERRI: Thank you.

16 MR. CHOUDHURY: Panel members, as you  
17 respond to questions, it would be helpful if  
18 you state your name.

19 MS. PERRI: Jim?

20 MR. WOOLFORD: Just -- I think one  
21 question. I'd like to thank all the panel  
22 members again.

23 One of the things that I noted in the  
24 presentation was the inadequacy of the  
25 environmental impact statements and how it

1 relates to the native concerns and native  
2 uses -- and I'll direct this to Louis and,  
3 then, to all of the members of the panel -- do  
4 you have any suggestions as to how to make that  
5 more responsive?

6 MS. DUWYENIE: I can answer. I  
7 believe that -- that most of the documentation  
8 and the NEPA compliance document did not  
9 include all interested parties as required  
10 under CFR-1500 and 1508 in that  
11 Native Americans are specifically allowed to  
12 become participating -- cooperative agencies to  
13 the EISs or NEPA compliance document.

14 In the case of Fort Wingate, I'm not sure  
15 that there was a -- an EIS done for transfer  
16 other than the BRAC closure with the assumption  
17 that it was -- it was Defense land. So, there  
18 was a flaw in the NEPA compliance document  
19 there. However -- because it is a federal-  
20 agency-to-federal-agency transfer, we are going  
21 to use the CADAX process (phonetic).

22 The difference in Sierra Indian Rancheria  
23 (sic) and Wingate is the fact that in the land  
24 order that's being issued by BLM to transfer  
25 the land to BIA -- it will be a beneficial use

1       land transfer. It will not be in the trust.  
2       The trust will occur some 20 years down the  
3       road, although -- because it is a beneficial  
4       use order, the tribes have extreme flexibility  
5       in deciding what will happen on that land.

6               MR. GUASSAC: One suggestion I'd like  
7       to make to that is that if you had known  
8       addresses of tribal governments within that  
9       area, that they -- and you know you get them  
10      out to them -- that would be one way of  
11      providing that data so that you can maintain  
12      your time line, but that would be one way of  
13      getting the right information back.

14             MS. PERRI: Thank you.  
15             Thomas?

16             MR. EDWARDS: Thank you. I have no  
17      specific questions. I just would like to thank  
18      all of you for coming. I think it's always  
19      helpful to the panel to see things from a  
20      different point of view. It really expands our  
21      understanding of these issues and I thank you  
22      for coming.

23             MS. PERRI: General?

24             GEN. HUNTER: I have no questions.  
25      Just a comment. It's really illuminating

1        what -- the Native American issues -- because  
2        as we've been going through this process, I  
3        don't think overall it's been high on the  
4        screen -- and, so, this has really given  
5        another perspective of where you enter as a --  
6        I think Sharlene said earlier, where you enter  
7        in the process. If you enter it late, you're  
8        going to get late results or no results -- and  
9        you're already talking about having exhausted  
10       your administrative process. So, I think  
11       that's an up-front piece we really need to  
12       address.

13                    MS. PERRI: Thank you.

14                    Paul?

15                    MR. REIMER: A question for you all:  
16       In the environmental process that this body  
17       has -- is in our perspective, so to speak,  
18       there is the question about historic  
19       designation. Is it -- I guess I'm a little bit  
20       surprised, Louie, that you didn't have more  
21       success in establishing some historic precedent  
22       just based upon the facts that you presented.  
23       Is it your experience that the environmental  
24       process leaves the Native American Nation short  
25       on designation.

1                   MR. GUASSAC: Well, I'll respond to  
2                   that by saying that the LRA went to the  
3                   Museum of Man and got documentation from  
4                   Ken Hedges. It gave a very narrow view of our  
5                   relationship to that area. Why? I don't know  
6                   why we weren't all contacted -- like what  
7                   normally happens to any dig they do in the  
8                   City. Right now -- I get mail in my mailbox  
9                   every day from projects -- and that did not  
10                  happen or occur for the Naval Training Center  
11                  site -- and that's very interesting.

12                 MR. WEIS: I would like to expand  
13                  on -- kind of from the side of looking at it  
14                  from the Army when we worked it -- tried to  
15                  work our EA through -- and one thing I said --  
16                  I -- I was very fortunate. I had some good  
17                  guidance from Dan Oppen at San -- Sacramento.  
18                  He told me, "You're going to have some  
19                  difficulties with Fish & Wildlife Service,  
20                  getting the cultural things come in on time and  
21                  all this on your EA process" -- and he was very  
22                  much true. I think we had a good suggestion  
23                  from the panel here about maybe identifying  
24                  native interests up front and including them as  
25                  a cooperative agency. That may help us pull

1       together. Because one thing we do is -- we  
2       have a need -- because we just have a big  
3       workload in front of us -- and we got excellent  
4       support from our core districts, but our core  
5       districts tried to focus this -- but as much  
6       as -- and they did their outreaches and this,  
7       but you can get left out of the process. So,  
8       maybe identifying them up front as a  
9       cooperating agency -- that -- that really  
10      gets it on line there. It's very important to  
11      everyone. I think we'd move it in a timely --  
12      and, then, I'd like to go back and visit  
13      another thing. Jimmy visited this with me  
14      earlier and the panel brought this up and I  
15      think this fits with this -- is the -- a couple  
16      of our time windows that we've spelled out --  
17      especially when people aren't getting  
18      notified -- 30-day time windows is -- and,  
19      then, understanding the government-to-  
20      government relationship where council is very  
21      important to our -- our native tribes. They  
22      generally function that way and I -- I know our  
23      council with the Susanville Indian Rancheria --  
24      they have specific days they meet on and 30-day  
25      time windows don't work at times. We're

WORKING DRAFT



1       dealing government-to-government. So, that's a  
2       very important thing to take out of this.

3               MS. PERRI: Thank you.

4               Steve?

5               MR. ROGERS: I want to express my  
6       appreciation for the panel and the information  
7       you provided. I probably have less of a  
8       question than a comment that -- this seems to  
9       follow up on, I think, what this gentleman just  
10      said -- that there has been such a focus --  
11      and appropriately so, I think, generally at  
12      the -- the closing bases on economic  
13      redevelopment and looking at the local elected  
14      officials as being decision-makers about local  
15      land reuse, but I think that this is  
16      confirming, sort of, an issue that's not  
17      appropriate in all circumstances and that I  
18      think the -- the DERTF needs to think about  
19      recommendations in -- in being able to provide  
20      a little more objectivity, perhaps, in looking  
21      at other -- other communities or subcomponents  
22      of communities and interests that may not be as  
23      well represented on the LRA and some way to  
24      make sure that that's considered. Because  
25      if -- and part -- the question to this is:

1       Is that consistent with what your experience  
2       is -- that, perhaps, the LRA may represent a  
3       legitimate, but only one part of the community  
4       interest and we may, perhaps, need to think of  
5       a way of broadening the input into how that  
6       land gets used in the future?

7               MR. WEIS: I would comment on that,  
8       too. It's -- It is something we all experience  
9       with the LRA, but it's kind of something we  
10      experience initially when we become BRAC.  
11      It's -- People understand things that they're  
12      comfortable with. It's as we usually did  
13      business -- and I think the LRAs initially --  
14      because a lot of the LRAs were, kind of, the  
15      framers of what the government entities, the --  
16      the redevelopment -- and the ongoing  
17      development of the community. So, they bring  
18      that to the table -- and it's -- it's a very  
19      important piece. It does happen. I don't know  
20      how to break down some of those kinds of  
21      barriers and get more inclusive, but I think  
22      that's -- that's a very targeted and  
23      well-placed question. How do we do that?

24             MS. PERRI: Okay. Thank you.

25             Stan?

1                   MS. DUWYENIE: I would like to make  
2                   one short comment. As far as Fort Wingate,  
3                   I -- I look at the California tribes. They  
4                   don't have the interaction that the Navajo  
5                   Nation has with its county governments, such as  
6                   the City of Gallup where the population is  
7                   60 percent Navajo or Native American; in the  
8                   county, where the population is 80 percent  
9                   Native American or Navajo and there's a daily  
10                  interaction. Two of our county commissioners  
11                  are Navajo. They make up the majority of the  
12                  county commissioners. We do have two  
13                  representatives on the City Council. I believe  
14                  the fact that -- as far as that interaction  
15                  which is already, you know, historical in  
16                  nature has really benefited the -- the  
17                  acquisition of Fort Wingate on not only the  
18                  Navajo Nation and Zuni tribe, but for the  
19                  Bureau. Because as you know, the Bureau spends  
20                  considerable dollars in -- in smaller towns --  
21                  border towns, so to speak -- and we are  
22                  recognized as viable entities within those  
23                  groups and I think that's why Wingate has been  
24                  successful as opposed to some of the smaller  
25                  tribes.

WORKING DRAFT

1 MS. PERRI: Okay. Thank you.

2 Paul -- Stan? I'm sorry.

3 MR. PHILLIPPE: The clear emphasis of  
4 your presentations was largely on land transfer  
5 and such. I'm -- I'm kind of -- going to ask a  
6 question kind of following along the lines that  
7 Paul asked since our agency deals with the  
8 cleanup process and moving of sites through the  
9 cleanup process -- and I'm wondering if you  
10 feel that there are adequate opportunities that  
11 you have to understand what -- the cleanup at  
12 each site, where it's headed and -- and make  
13 known at the right time cultural interests of  
14 the tribes or are you finding that the  
15 opportunities are not there for that? In other  
16 words, are you able to get your two cents into  
17 the cleanup process?

18 MR. GUASSAC: I'd like to respond to  
19 that. The state was invited, EPA -- Campo Band  
20 as an EPA -- I think five of the bands now in  
21 San Diego County have EPAs. None of them were  
22 formally asked to participate as were the other  
23 agencies for whatever reasons, but it could  
24 have happened and -- and, then, we could have  
25 known more about what you're -- you're talking

1       about -- and bring it forward. Yeah, that --  
2       that -- it could have been done. It can be  
3       done.

4               MS. PLATERO: In our case, we were  
5       invited to the BTC meetings, but only as, "You  
6       sit in the back and listen." But -- being  
7       persistent that we are -- we didn't. We asked  
8       a lot of questions -- and being a person that  
9       is not -- doesn't have a background in  
10      environmental issues -- I'm not a science  
11      person -- I'm a business person -- economic  
12      development issues -- you know, I asked a lot  
13      of questions and -- so -- you know, we just  
14      voiced our opinion and -- and asked, "Why are  
15      you doing that? Why" -- "Why are you doing  
16      that this time? What's the" -- "What's the  
17      significance of this plan," et cetera,  
18      et cetera. We just asked a lot of questions  
19      and we just were persistent.

20             MS. DUWYENIE: As far as  
21      participating in the environmental restoration  
22      process, we now have a delegate. Before, the  
23      Department of Interior was left completely  
24      out. We now have a delegate or a chair on that  
25      committee. We still are being excluded from

1       certain peer-review-type meetings -- which I  
2       think is wrong. I think that if -- if we --  
3       everyone knows it's going to become our land.  
4       I think that we should be allowed to  
5       participate in all restoration meetings, not  
6       just select ones that are for the benefit of  
7       the Department of Defense or any other  
8       organization that's doing the restoration part  
9       of it.

10           A point of example is, there are  
11       786 igloos on Fort Wingate. All have been used  
12       at one time or another for munition storage.  
13       There are no records existing at Fort Wingate  
14       to determine whether or not spills occurred in  
15       any of those buildings. There was 8 percent  
16       sampled and they were just wipe samples. They  
17       were not any -- what I would consider QA/QC  
18       samples taken, but they showed hits -- positive  
19       hits of explosives and nitrates/nitrites in  
20       the -- in the wipes. The original statement by  
21       Army was that they would go through and steam  
22       clean these -- and, then, there was a  
23       backpeddling and, then, they said, "No. We're  
24       not going to do it. You have to take them as  
25       they are." Well, we -- we opposed that idea in

1       that we are not -- we are not going to be doing  
2       a military action such as what was carried out  
3       at Fort Wingate.  It's going to go to a  
4       civilian-type operation.  I don't know of any,  
5       you know, civilian operations -- except for  
6       fireworks -- that -- that do, you know,  
7       munitions, explosives, nitrate/nitrite  
8       handling.

9               We -- We now -- There was a special  
10       meeting held in Santa Fe with the New Mexico  
11       Environmental Department of which the BIA was  
12       not invited nor was the tribe -- either  
13       tribe -- and in this meeting, the state  
14       environmental department announced that these  
15       igloos were all now going to be AOCs.  We have  
16       an agreement between all three entities that  
17       AOCs, or areas of concern, will not be  
18       transferred until they are -- until they  
19       receive a no-further-action decision -- and,  
20       yet, Tooele was pushing us along to acquire TPL  
21       properties of which some of these igloos are  
22       located.  There's about 153 of these igloos are  
23       there.  So, we could have -- had we not kept  
24       our ear to the ground and -- and listened to  
25       the -- the winds whisper and so forth and had

1 contacts in environmental with the state, we  
2 would have acquired 153 igloos and acquired the  
3 liability for them. So, I think a lot of  
4 times, giving us an opportunity to know about  
5 it ahead of time, to participate as a  
6 100 percent partner in these environmental  
7 decisions will benefit both the Department of  
8 Defense and the land acquisitioners. I think  
9 that a lot of times, a lot of the Bureau was  
10 limited in staff. They don't believe that we  
11 have the technical expertise or the capability  
12 of acquiring technical expertise, either under  
13 contract or anything else, to help make these  
14 decisions and I think they look at the tribes  
15 in that manner -- that they are not  
16 sophisticated enough -- but we have some very  
17 good Native American scientists. We have some  
18 very good Bureau people that can probably -- if  
19 not know the specifics -- can address some of  
20 the issues on a more general basis.

21 MS. PERRI: Thank you.

22 MR. PRESTON: And a lot of this -- a  
23 lot of this depends upon the individual --  
24 Well, the -- you know, Army as opposed to Navy,  
25 but also -- in our case, it depends a lot upon



1       the -- the -- the base commander and how -- and  
2       how willing the base commander has been able to  
3       work with us -- and, in our case, the base  
4       commander has set a policy -- we have a new one  
5       now -- but the policy, hopefully, will carry  
6       forward that we will work together in  
7       cooperatively -- in addressing environmental  
8       issues. We -- In order to help facilitate that  
9       process and keep the promise strong is that we  
10      also have relocated our environmental program  
11      coordinator to the Army base itself right now  
12      where she now has her office -- and, so --  
13      working along with your Mr. Weis here and his  
14      staff, we, at least, have this cooperative  
15      agreement going as -- and -- and we'll really  
16      test that agreement as time goes by and as we  
17      begin to acquire other sections of that base,  
18      which include a similar -- a similar situation  
19      here where you have igloos out there that,  
20      you know, have -- have had munitions stored in  
21      them -- and how -- and how we would address  
22      those issues, but that's -- that's down the  
23      road a ways. The precedent has already been  
24      set -- and, so, I hope that will carry it  
25      forward.

WORKING DRAFT

1 MS. PERRI: Okay. Thank you.

2 And, then, Brian?

3 MR. POLLY: I want to thank the five  
4 of you for coming. I think it's very important  
5 that we had an opportunity to hear what you had  
6 to say.

7 A couple of quick things: Sharlene,  
8 I think, really hit it when she talked about  
9 communication. Because going back and looking  
10 at Louis' slide -- LRA not clear about tribal  
11 participation -- I think there needs to be more  
12 dialogue. I think there needs to be a  
13 meeting -- my suggestion -- with DoD  
14 Interior. We'd like to play -- because we deal  
15 with Native Americans all the time within GSA,  
16 working with them to try and reach agreement on  
17 transfer of specific properties. So, I'll be  
18 willing to take the lead to get something set  
19 up so we can dialogue and come to an agreement  
20 of what kind we can do there.

21 Training is another big piece that I heard  
22 last night and I'm hearing again today loud and  
23 clear in working with the local constituents so  
24 they really have an understanding of what the  
25 BRAC process is all about, how they can

1       interact and play in it. The one thing I do  
2       want to caution you about that I run into  
3       continually is, you do have naval --  
4       Native American tribes that call on more  
5       property. They aren't recognized by Bureau of  
6       Indian Affairs. That does cause  
7       consternation. So, we need to also take a look  
8       at that and have that as one of the things that  
9       we need to talk about and come to an agreement  
10      with. It's unfortunate that Rosaritia (sic) is  
11      here representing the environmental side. We  
12      don't have anybody here from Bureau of Indian  
13      Affairs at the policy side from D.C., which is  
14      unfortunate -- because a lot of these things,  
15      really, are at a policy level that we need to  
16      deal with.

17             But I want to thank you again. It's on my  
18      radar screen. I'll do what I can to -- to try  
19      and ameliorate and facilitate some of the  
20      dialogue. Thank you.

21             MS. PERRI: Thank you.

22             MR. GRAY: May I say just one final  
23      word before we adjourn?

24             MS. PERRI: Sure.

25             MR. GRAY: I'm very pleased with this

1 panel. It -- It addresses two of my long-time  
2 passions on the Task Force. One being the  
3 protection of natural and cultural resources at  
4 closing bases and the other is truly  
5 representative community participation in both  
6 the reuse and the cleanup decision-making  
7 process.

8 Thank you.

9 MS. PERRI: Okay. Why don't we  
10 adjourn until 1:15 and we'll start promptly.

11 Thank you.

12 (Short break taken.)

13

14 \* \* \* \* \*

15

16

17

18

19

20

21

22

23

24

25

1 STATE OF TEXAS \*

2 COUNTY OF BEXAR \*

3 I, JULIE A. SEAL, a Certified  
4 Shorthand Reporter and Notary Public in and for  
5 the State of Texas, do hereby certify that the  
6 above and foregoing contain a true and correct  
7 transcription of all proceedings, all of which  
8 occurred and were reported by me.

9 WITNESS MY HAND, this the 18th day of  
10 February, A.D. 1999.

11

12

13

Cert. No. 5160

14

JULIE A. SEAL  
Expires: Dec. '99 Certified Shorthand Reporter  
and Notary Public in and for  
(210) 377-3027 the State of Texas

15

16

17

18

19

20

21

22

23

24

25

WORKING DRAFT